

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

February 20, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Pruitt:

Travel vouchers and other agency records show you flew in first class on numerous occasions when traveling on official business for the Environmental Protection Agency (EPA).¹ In response, EPA spokesman Jahan Wilcox stated due to security reasons you had a “blanket waiver” to the federal regulation limiting officials’ ability to fly first class.² Wilcox subsequently amended the statement to specify a request for a waiver to fly in first or business class is submitted for every trip.³

Federal regulations require government travelers to obtain approval or authorization from their agency to use accommodations other than coach-class when traveling on official business.⁴ Further, “[b]lanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis, unless the traveler has an up-to-date documented disability for special need.”⁵ Clearly, federal regulations prohibit a blanket waiver to fly first class except to accommodate disabilities or special needs. Instead, a waiver for each flight is required in order to fly first or business class when traveling on official government business.

To assist the Committee’s oversight of whether federal regulations regarding official travel were followed, please provide the following documents and information:

1. Identify each flight taken by you for official agency business between February 17, 2017 and February 16, 2018; and

¹ Juliet Eilperin & Brady Dennis, *First-Class Travel Distinguishes Scott Pruitt’s EPA Tenure*, WASH. POST (Feb. 11, 2018), https://www.washingtonpost.com/national/health-science/first-class-travel-distinguishes-scott-pruitts-epa-tenure/2018/02/11/5bb89afc-0b7d-11e8-8b0d-891602206fb7_story.html?utm_term=.ba5059ddd28d.

² Timothy Cama, *Pruitt Has ‘Blanket Waiver’ to First-Class Travel Rules*, THE HILL (Feb. 13, 2018, 8:53 PM), <http://thehill.com/policy/energy-environment/373747-pruitt-has-blanket-waiver-to-first-class-travel-rules>.

³ Eric Wolff, Emily Holden, & Alex Guillen, *EPA Changes Its Story on Pruitt’s First-Class Travel*, POLITICO (Feb. 14, 2018, 6:12PM), https://www.politico.com/story/2018/02/14/scott-pruitt-first-class-travel-347631?lo=ap_e1.

⁴ Federal Travel Regulation, 41 C.F.R. § 301-10.123 (2009).

⁵ *Id.* at Note 2.

2. For each flight please provide the following information and documentation regarding:
 - a. Departure airport;
 - b. Arrival airport;
 - c. Official agency reason for the travel;
 - d. Whether the ticket was for coach, business, or first class; and
 - e. Total airfare cost.
3. In addition, for each flight for which a first or business class ticket was purchased please provide the following information and documentation regarding:
 - a. Whether an individual waiver to purchase a first or business class ticket for the flight was obtained;
 - b. If a waiver was received, please provide the waiver and any documentation related to the reason the waiver was granted;
 - c. Identify all other EPA employees or members of your security detail who accompanied you in first or business class; and
 - d. The total airfare cost, including the airfare for individuals identified in (c).

Provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on March 6, 2018. An attachment to this letter provides additional instructions for responding to the Committee's request.

Please contact Caroline Nabity of the majority staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Trey Gowdy

Enclosure

cc: The Honorable Elijah E. Cummings

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 21 2018

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable Thomas R. Carper
Ranking Member
Senate Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Carper:

This responds to your letter, dated February 15, 2018, regarding past air travel of Administrator Pruitt. The Administrator asked that I respond on his behalf.

The U.S. Environmental Protection Agency's Protective Service Detail has identified specific, ongoing threats associated with the Administrator's air travel and, therefore, shifted his class based on certain security protocols that require him to be near the front of the plane. This location allows the Administrator's security agents to expeditiously exit with him upon the occurrence of a threat. According to EPA's Assistant Inspector General for Investigations, Administrator Pruitt "has had significantly more threats directed against him. There's absolutely no question about it."¹ In fact, EPA has received "at least four to five times the number of threats against Mr. Pruitt than [the agency] had against Ms. [Gina] McCarthy."² In addition to the increased number of threats, the Assistant Inspector General explained that the threats "run the variety of direct threats – 'I'm going to put a bullet in your brain' – to implied threats – 'if you don't classify this particular chemical in this particular way, I'm going to hurt you.'"³ These threats are not limited to just Administrator Pruitt – they also target his family.⁴

Because of these ongoing security concerns, EPA had approved, on an individualized basis, each time the Administrator needed to use other than coach-travel accommodations. Federal Travel Regulations state that "[w]hen exceptional security circumstances require other than coach-class airline accommodations," an agency "may authorize/approve first class accommodations."⁵ Further, "exceptional security circumstances are determined by [an] agency and should only be

¹ *Threats on rise via tweets, postcards and emails*, Greenwire (January 11, 2018). Available at <https://www.eenews.net/greenwire/stories/1060070805>.

² *EPA pulls agents from criminal investigations to guard Pruitt*, CNN (November 28, 2017). Available at <https://www.cnn.com/2017/09/21/politics/epa-pruitt-agents/index.html>.

³ *Id.*

⁴ *EPA Chief's First-Class Travel Prompted by 'Aggressive' Encounters, Official Says*, Bloomberg Politics (February 15, 2018). Available at <https://www.bloomberg.com/news/articles/2018-02-15/epa-chief-s-high-flying-travel-prompted-by-vulgar-encounters>.

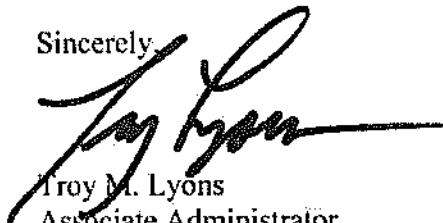
⁵ 41 C.F.R. § 301-10.123(a)(3).

authorized up to the minimum other than coach-class accommodation necessary.”⁶ These circumstances include, but are not limited to, situations when the “[u]se of coach-class accommodations would endanger [one’s] life or Government property” or an agent on protective detail is “accompanying an individual authorized to use other than coach-class accommodations.”⁷ The regulations for an agency to approve/authorize business-class accommodations mirror those for first-class accommodations.⁸

Enclosed please find information and documentation responsive to your request for official air travel of the Administrator, including airfare and other travel information. On past trips, his protective service detail accompanied him in first class. Should you need information and documentation regarding the travel of the Administrator’s Protective Service Detail, we can work with your staff to provide you with an opportunity to review those documents at EPA, as they are security sensitive.

If you have further questions, please contact me or your staff may contact Kyle Aarons in my office at (202) 564-7351 or Aarons.Kyle@epa.gov.

Sincerely,



Troy M. Lyons
Associate Administrator

Enclosures

cc: The Honorable John Barrasso
Chairman

⁶ *Id.*

⁷ §§ 301-10.123(a)(3)(i), (ii).

⁸ *See* 41 C.F.R. § 301-10.123(b)(2).

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
CHRIS VAN HOLLEN, MARYLAND

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

March 28, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental and Protection Agency (EPA)
1301 Constitution Ave. NW, Rm 3102
Washington, DC 20460

Dear Mr. Elkins:

I write to request that the Office of Inspector General conduct an immediate review of Environmental Protection Agency's (EPA) efforts to prevent fraud related to employee time and attendance, including an investigation of potential fraud committed by Administrator Pruitt's political staff. Specifically, I have been informed that Ms. Samantha Dravis, Associate Administrator of EPA's Office of Policy, did not attend work or perform her duties for much if not all of the months of November 2017–January 2018. I am additionally informed that Ms. Dravis was likely compensated as a full-time employee throughout that time.

This is not the first time that reports of time and attendance problems have plagued the agency. In 2013, EPA learned that John Beale, a senior career official, had defrauded the agency for years by claiming that his months-long absences from work were attributable to his undercover work for the CIA. He was sentenced to 32 months in prison¹ and the case was the subject of considerable Congressional² interest.³ This matter also led to several reports, written by EPA⁴ and by you⁵, recommending improvements in EPA's oversight of employee time and attendance practices.

The information my office received, particularly in light of the fact that Ms. Dravis is a senior political appointee, raises questions about whether EPA is adhering to its corrective actions regarding employee time and attendance. These actions, including timekeeping oversight, were implemented to ensure that nothing like John Beale's criminal fraud "could ever happen at EPA again."⁶ I request that you quickly investigate the specific allegations surrounding the information I have received regarding Ms. Dravis, as well as any related systemic problems in EPA's oversight of its employee time and attendance practices.

Thank you for your consideration of this matter.

Yours Sincerely,



Tom Carper
Ranking Member

¹ https://www.epa.gov/sites/production/files/2015-09/documents/ig_statement_sentencing_of_john_c_beale_12-18-13_.pdf

² <https://www.epw.senate.gov/public/index.cfm/press-releases-republican?ID=2090BF37-CCA5-8FA8-CEF1-98C820804D1E>

³ <https://www.gpo.gov/fdsys/pkg/CHRG-113hhrg85907/pdf/CHRG-113hhrg85907.pdf>

⁴ https://www.eenews.net/assets/2014/04/25/document_gw_07.pdf

⁵ <https://www.epa.gov/sites/production/files/2015-09/documents/20150615-15-p-0167.pdf>

⁶ https://www.eenews.net/assets/2014/04/25/document_gw_07.pdf

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

April 13, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Pruitt:

The Committee recently became aware of new information regarding your official travel and February 2017 lease agreement. In light of this new information, we request the following documents and information:

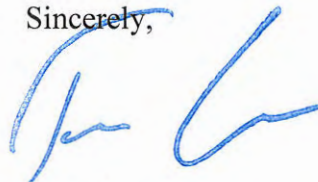
1. All documents and communications referring or relating to the official agency travel of EPA Senior Special Agent Pasquale "Nino" Perrotta between February 17, 2017, and April 13, 2018;
2. All documents and communications referring or relating to your complete itinerary for the June 2017 trip to Italy, including, but not limited to, your daily official calendar for June 7 to June 11, 2017, and travel vouchers for all EPA employees who accompanied you on the trip;
3. All documents and communications referring or relating to the hiring of a private Italian security firm for your trip to Italy;
4. All documents and communications referring or relating to your complete itinerary for the December 2017 trip to Morocco, including, but not limited to, your daily official calendar for December 9 to December 13, 2017, and travel vouchers for all EPA employees who accompanied you on the trip;
5. All documents and communications referring or relating to the decision to increase your level of security to 24-hour protection;
6. All documents and communications referring or relating to contracts between the EPA and private entities to perform security sweeps of your office; and
7. Documents and communications sufficient to identify the official who made the determination 24-hour protection was necessary.

Please provide the requested documents and information as soon as possible but no later than April 27, 2018. An attachment to this letter provides additional instructions about responding to this request. In addition, contact the Committee by April 27, 2018, to schedule transcribed interviews with the following individuals:

1. Ryan Jackson, Chief of Staff;
2. Kevin Chmielewski, Deputy Chief of Staff;
3. Pasquale "Nino" Perrotta, Senior Special Agent;
4. Millian Hupp, Director of Scheduling and Advance; and
5. Sarah Greenwalt, Senior Counsel.

Please contact Caroline Nabity of the Majority staff at (202) 225-5074 with any questions. We also look forward to receiving the additional documents and information requested in the Committee's February 20 and April 11, 2018, letters. Thank you for your attention to this matter.

Sincerely,



Trey Gowdy

Enclosures

cc: The Honorable Elijah E. Cummings

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
115TH CONGRESS**

NOTICE OF APPEARANCE OF COUNSEL

Counsel submitting: _____

Bar number: _____ **State/District of admission:** _____

Attorney for: _____

Address: _____

Telephone: (_____) _____ - _____

Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the undersigned as counsel for _____ in (select one):

All matters before the Committee

The following matters (describe the scope of representation):

All further notice and copies of papers and other material relevant to this action should be directed to and served upon:

Attorney's name: _____

Attorney's email address: _____

Firm name (where applicable): _____

Complete Mailing Address: _____

I agree to notify the Committee within 1 business day of any change in representation.

Signature of Attorney

Date

United States Senate

WASHINGTON, DC 20510

April 24, 2018

Kevin Minoli
Principal Deputy General Counsel
Designated Agency Ethics Official
Environmental Protection Agency
1200 Pennsylvania Avenue NW, 2310A
Washington, D.C. 20460

Dear Mr. Minoli,

On March 6, 2018, we wrote to EPA Administrator Scott Pruitt requesting information about whether Pasquale “Nino” Perrotta, the Acting Special Agent in Charge of the Administrator’s personal security detail, had been properly cleared by EPA officials to be a “principal” in Sequoia Security Group, a security firm Mr. Perrotta claims he founded. We specifically asked for:

- All requests for approval of outside employment by Mr. Perrotta, including supporting documentation and any other information relevant to the requirements of 5 C.F.R. 6401.103.
- All approvals given by EPA for his outside employment, including any guidance about or limitations to those approvals in any form.
- All financial disclosures made by Mr. Perrotta during his employment at EPA. If Mr. Perrotta did not make financial disclosures for any period of his employment at EPA, please provide an explanation of those gaps.¹

While we have not yet received a response to our letter, EPA has been able to release the attached “Approval of Request for Outside Activity/Employment” in response to an article about Perrotta in the *New York Times*.² If this document is EPA’s basis for claiming that Mr. Perrotta has been cleared, under EPA regulations, to run a private security consulting firm while running the Administrator’s personal security detail, it is insufficient on its face for at least three reasons.

¹ Letter from Senator Tom Carper and Senator Sheldon Whitehouse to EPA Administrator Scott Pruitt (Mar. 6, 2018) (available at <https://www.whitehouse.senate.gov/news/release/whitehouse-carper-raise-red-flags-about-epa-contract-with-business-partner-of-pruitts-security-chief>).

² Kenneth P. Vogel, Eric Lipton, and Lisa Friedman, “At E.P.A., Pruitt’s ‘Sheriff’ Clashed With Critics of Spending,” *The New York Times*, Apr. 12, 2018 (available at <https://www.nytimes.com/2018/04/12/climate/epa-scott-pruitt-pasquale-perrotta.html>).

First, the approval states that it “is effective for a period of five (5) years.” That five-year limitation is required by 5 CFR 6401.103(d). Mr. Perrotta’s approval was issued on March 5, 2013, so it has expired.

Second, 5 CFR 6401.103(d) also states, “[i]f there is a change in the nature or scope of the duties or services performed or the nature of the employee’s business, the employee must submit a revised request for approval.” Mr. Perrotta’s duties at EPA have changed significantly since 2013. As *The New York Times* reported, and as we have confirmed through interviews with current and former EPA staff, Mr. Perrotta was named acting Special Agent in Charge just last year, and was elevated from a GS-13 to a GS-15 pay grade. The *Times* also reported that Mr. Perrotta “played a central role in approving Mr. Pruitt’s regular use of first-class flights,” “pushed for the construction of a \$43,000 surveillance-proof booth in Mr. Pruitt’s office in Washington,” and “pressed, unsuccessfully, for a bulletproof vehicle for Mr. Pruitt and a bulletproof desk for his security detail.” This reporting has also been confirmed by people with knowledge who have spoken with our staffs. Mr. Perrotta did not perform any of these functions for prior EPA administrators, so they plainly constitute a “change in the nature and scope of the duties or services” he performs.

Third, it appears that Mr. Perrotta has failed to keep EPA apprised of the nature and scope of his business. When he sought authorization for this outside employment in 2013, Mr. Perrotta represented to the agency that he expected to be “self-employed” “to provide consulting to 2-3 clients, for approximately 3-6 hours per week” related to cybersecurity and “denial of service insurance.” He did not mention that his self-employment would be establishing a firm, the Sequoia Security Group, that currently lists six officers and advisors. The firm offers a far broader range of services than originally disclosed, including investigation, executive protection, risk and crisis management, cyber security, corporate compliance, security vulnerability and threat assessments, and technical surveillance countermeasures.³ Not only does the nature and scope of Mr. Perrotta’s business appear to have changed since 2013, but he now does work for private clients that closely aligns with his work for EPA and it appears he directed some of that work to one of his business associates, Edwin Steinmetz.

Based on the facts we know, we seek to understand how your office has evaluated and monitored authorizations it provides under 5 CFR 6401.103 for Mr. Perrotta and perhaps others at EPA as well. So that we may better understand whether EPA is following its own policies and regulations, we request copies of all requests for and approvals or denials of outside employment processed by your office since January 21, 2009, along with supporting documentation. Our staffs would be pleased to work with your office to establish a procedure for reviewing these documents that does not improperly infringe upon the privacy rights of EPA employees.

³ <http://sequoiasecuritygroup.com/service.html>

We request the courtesy of a response no later than May 4, 2018. Should you have any questions, please do not hesitate to contact Michal Freedhoff (michal_freedhoff@epw.senate.gov) or Joe Gaeta (joe_gaeta@whitehouse.senate.gov).

Sincerely,

A handwritten signature in blue ink, reading "Tom Carper", written over a horizontal line.

Thomas R. Carper
United States Senator

A handwritten signature in blue ink, reading "Sheldon Whitehouse", written over a horizontal line.

Sheldon Whitehouse
United States Senator

cc: Troy Lyons, Associate Administrator, Office of Congressional and Intergovernmental Relations, Environmental Protection Agency

United States Senate
WASHINGTON, DC 20510

April 24, 2018

Kevin Minoli
Principal Deputy General Counsel
Designated Agency Ethics Official
Environmental Protection Agency
1200 Pennsylvania Avenue NW, 2310A
Washington, D.C. 20460

Dear Mr. Minoli,

On March 6, 2018, we wrote to EPA Administrator Scott Pruitt requesting information about whether Pasquale “Nino” Perrotta, the Acting Special Agent in Charge of the Administrator’s personal security detail, had been properly cleared by EPA officials to be a “principal” in Sequoia Security Group, a security firm Mr. Perrotta claims he founded. We specifically asked for:

- All requests for approval of outside employment by Mr. Perrotta, including supporting documentation and any other information relevant to the requirements of 5 C.F.R. 6401.103.
- All approvals given by EPA for his outside employment, including any guidance about or limitations to those approvals in any form.
- All financial disclosures made by Mr. Perrotta during his employment at EPA. If Mr. Perrotta did not make financial disclosures for any period of his employment at EPA, please provide an explanation of those gaps.¹

While we have not yet received a response to our letter, EPA has been able to release the attached “Approval of Request for Outside Activity/Employment” in response to an article about Perrotta in the *New York Times*.² If this document is EPA’s basis for claiming that Mr. Perrotta has been cleared, under EPA regulations, to run a private security consulting firm while running the Administrator’s personal security detail, it is insufficient on its face for at least three reasons.

¹ Letter from Senator Tom Carper and Senator Sheldon Whitehouse to EPA Administrator Scott Pruitt (Mar. 6, 2018) (available at <https://www.whitehouse.senate.gov/news/release/whitehouse-carper-raise-red-flags-about-epa-contract-with-business-partner-of-pruitts-security-chief>).

² Kenneth P. Vogel, Eric Lipton, and Lisa Friedman, “At E.P.A., Pruitt’s ‘Sheriff’ Clashed With Critics of Spending,” *The New York Times*, Apr. 12, 2018 (available at <https://www.nytimes.com/2018/04/12/climate/epa-scott-pruitt-pasquale-perrotta.html>).

First, the approval states that it “is effective for a period of five (5) years.” That five-year limitation is required by 5 CFR 6401.103(d). Mr. Perrotta’s approval was issued on March 5, 2013, so it has expired.

Second, 5 CFR 6401.103(d) also states, “[i]f there is a change in the nature or scope of the duties or services performed or the nature of the employee’s business, the employee must submit a revised request for approval.” Mr. Perrotta’s duties at EPA have changed significantly since 2013. As *The New York Times* reported, and as we have confirmed through interviews with current and former EPA staff, Mr. Perrotta was named acting Special Agent in Charge just last year, and was elevated from a GS-13 to a GS-15 pay grade. The *Times* also reported that Mr. Perrotta “played a central role in approving Mr. Pruitt’s regular use of first-class flights,” “pushed for the construction of a \$43,000 surveillance-proof booth in Mr. Pruitt’s office in Washington,” and “pressed, unsuccessfully, for a bulletproof vehicle for Mr. Pruitt and a bulletproof desk for his security detail.” This reporting has also been confirmed by people with knowledge who have spoken with our staffs. Mr. Perrotta did not perform any of these functions for prior EPA administrators, so they plainly constitute a “change in the nature and scope of the duties or services” he performs.

Third, it appears that Mr. Perrotta has failed to keep EPA apprised of the nature and scope of his business. When he sought authorization for this outside employment in 2013, Mr. Perrotta represented to the agency that he expected to be “self-employed” “to provide consulting to 2-3 clients, for approximately 3-6 hours per week” related to cybersecurity and “denial of service insurance.” He did not mention that his self-employment would be establishing a firm, the Sequoia Security Group, that currently lists six officers and advisors. The firm offers a far broader range of services than originally disclosed, including investigation, executive protection, risk and crisis management, cyber security, corporate compliance, security vulnerability and threat assessments, and technical surveillance countermeasures.³ Not only does the nature and scope of Mr. Perrotta’s business appear to have changed since 2013, but he now does work for private clients that closely aligns with his work for EPA and it appears he directed some of that work to one of his business associates, Edwin Steinmetz.

Based on the facts we know, we seek to understand how your office has evaluated and monitored authorizations it provides under 5 CFR 6401.103 for Mr. Perrotta and perhaps others at EPA as well. So that we may better understand whether EPA is following its own policies and regulations, we request copies of all requests for and approvals or denials of outside employment processed by your office since January 21, 2009, along with supporting documentation. Our staffs would be pleased to work with your office to establish a procedure for reviewing these documents that does not improperly infringe upon the privacy rights of EPA employees.

³ <http://sequoiasecuritygroup.com/service.html>

We request the courtesy of a response no later than May 4, 2018. Should you have any questions, please do not hesitate to contact Michal Freedhoff (michal_freedhoff@epw.senate.gov) or Joe Gaeta (joe_gaeta@whitehouse.senate.gov).

Sincerely,

A handwritten signature in blue ink, reading "Tom Carper", written over a horizontal line.

Thomas R. Carper
United States Senator

A handwritten signature in blue ink, reading "Sheldon Whitehouse", written over a horizontal line.

Sheldon Whitehouse
United States Senator

cc: Troy Lyons, Associate Administrator, Office of Congressional and Intergovernmental Relations, Environmental Protection Agency

Congress of the United States
Washington, DC 20515

April 25, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

We are concerned regarding the health and environmental consequences of a January 25, 2018, Environmental Protection Agency (EPA) memo, which dramatically weakens protections against toxic air pollution by withdrawing the long standing “once in, always in” (OIAI) policy.

As you know, the Clean Air Act requires EPA to limit emissions of hazardous air pollutants (HAPs), including many known to cause cancer, harm development in children, and kill. The lengthy list includes mercury, arsenic, formaldehyde, benzene, asbestos, chlorine, cyanide, and lead.

In the Clean Air Act amendments of 1990, Congress made major changes to the way EPA regulates these toxic emissions because the agency had regulated only seven HAPs in the preceding 20 years. Congress acted out of deep concern that Americans were dying of cancer and facing other serious adverse health effects as a result of exposure to industrial HAPs. Congress was quite prescriptive in its direction to the agency: we required EPA to issue rules limiting emissions of 189 toxic HAPs, from all categories of “major sources” of these pollutants. The law requires the “maximum degree of reduction in [HAP] emissions ... including a prohibition on such emissions, where achievable.” Sources must employ “maximum achievable control technology” or “MACT” to reduce HAP emissions to levels that the top-performing sources in an industry sector already meet. Congressional concern with these carcinogens and neurotoxins was so great that the law also contains *additional* safeguards: periodic reviews for control technology updates; residual cancer risk authorities; strict compliance directives; and anti-backsliding provisions.

From 1995 until this year, sources emitting HAPs were required to meet MACT standards if, on the date that the MACT standard went into effect, they had the potential to emit 10 tons of any one HAP or 25 tons of any combination of HAPs, annually (“10/25 ton per year threshold”). To ensure major sources kept those protections in place, EPA implemented what became known as the “once in, always in” policy, requiring major sources to continue to meet HAP emission limits based on MACT, even as they lowered and maintained emissions at or below MACT limits. EPA recognized that, without this policy, polluting sources could curtail use of MACT and increase their HAP emissions substantially above MACT-based emission limits, all the way up to the 10/25 ton per year threshold.

On January 25, without providing any notice to the public or opportunity for comment on its step, EPA reversed this decades-old understanding. In a four-page memorandum, EPA

announced that sources currently complying with MACT air toxics standards now have the option of getting out of all MACT requirements if their emissions are below the 10/25 ton per year threshold. EPA will permit this even if sources are currently subject to one or more MACT standards that reduces HAPs emissions well below that threshold, and even if that means sources may *increase* their hazardous emissions significantly *and increase* the health hazards to Americans in neighboring communities.

This is not the first time EPA has tried to weaken protections against toxic air pollution so radically. When EPA proposed to take this same step more than 10 years ago, the agency's own regional offices expressed concern that the proposal would allow HAPs to increase, and "would be detrimental to the environment and undermine the intent of the MACT program."¹ The regional offices further argued that many plants would take the opportunity to use the less stringent requirements, and "the cost of the increased [HAP] emissions would be borne by the communities surrounding the sources."² An EPA political appointee claimed at the time that industry would be motivated to be good neighbors and not increase emissions. However, after Congress inquired pointedly, this claim was revealed this to be little more than speculation, with no basis in fact.³ Thanks to the concerns raised during the open and transparent rulemaking process, EPA did not make the mistake of finalizing a proposal that would have jeopardized the health and welfare of the American public.

Now, the current EPA has decided to re-litigate the past, purporting to authorize through mere guidance the approach of the failed 2007 proposed rule, and granting immediate permission to industries to increase HAPs substantially. What's more, we now have a snapshot of the potential toxic impacts this policy would have on communities near, and downwind from, the thousands of major sources subject to MACT.

Last month, the Environmental Integrity Project released a brief analysis of the current HAP emissions of 12 major sources in the Midwest, and their potential emission increases without longstanding protections from HAPs. Combined, these facilities released over 121,000 pounds of HAPs annually in 2016, including neurotoxins like lead and carcinogens like benzene. Without the safeguards preserved in EPA's 1995 policy, the report found that "the total emissions from these major sources could more than quadruple to a total of 540,000 pounds a year, because the new exemption allows such facilities to save money by cutting back on their pollution controls."⁴ Furthermore, the report highlighted the danger in relying on corporations to report their emissions to prove their HAP emissions are below the 10/25 ton per year threshold

¹ Memorandum to EPA Office of Air Quality Planning and Standards from EPA Regional Offices, *Regional Comments on Draft OIAI Policy Revisions*, at 3 (Dec. 13, 2005).

² Memorandum to EPA Office of Air Quality Planning and Standards from EPA Regional Offices, *Regional Comments on Draft OIAI Policy Revisions*, at 3-4 (Dec. 13, 2005).

³ Letter from Chairman John D. Dingell, Committee on Energy and Commerce, to William Wehrum, Acting Assistant Administrator, EPA Office of Air and Radiation (Feb. 23, 2007); Response Letter from William Wehrum, Acting Assistant Administrator, EPA Office of Air and Radiation, to Chairman John D. Dingell, Committee on Energy and Commerce (Mar. 30, 2007).

⁴ Environmental Integrity Project, *Toxic Shell Game: EPA Reversal Opens Door to More Hazardous Air Pollution* (Mar. 26, 2018) (www.environmentalintegrity.org/wp-content/uploads/2017/02/Toxic-Shell-Game.pdf).

and will remain there. The report noted major sources “seldom actually measure their hazardous emissions” on their own volition, so monitoring requirements were created in scores of MACT standards to keep them honest. But EPA’s reversal of an essential protection against toxic air pollution would allow industrial emitters to no longer meet the monitoring, recordkeeping, or reporting requirements in MACT standards. This is in addition to letting polluting facilities evade the emission limits that protect Americans from increased HAPs.⁵

The Environmental Defense Fund released a second report assessing the toxic air pollution impacts on the Houston-Galveston region from EPA’s new loophole, focusing on at least 18 potentially eligible facilities.⁶ The report found that if all these facilities took advantage of the loophole to the maximum extent allowed by EPA’s January rollback, the “total annual emissions of hazardous air pollutants from these facilities would increase by almost 146 percent over 2014 levels, to a total of 900,000 pounds.”⁷ Moreover, the report identified eight more facilities that appear eligible for the loophole; adding these facilities would increase emissions by 400,000 more pounds. EPA’s new loophole would allow a total increase of an astonishing 1.3 million pounds of HAPs from just these 26 industrial facilities in the Houston-Galveston region.⁸

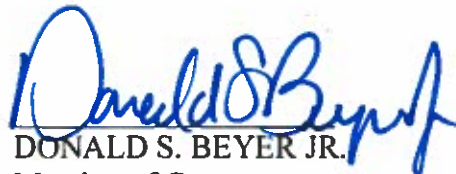
We share the serious concerns of those who opposed past attempts to undermine legal protections against HAP increases. The Environmental Integrity Project and Environmental Defense Fund analyses make our concerns far more pressing. This alarming information demands your immediate attention.

The American public needs and deserves clean air and protection from hazardous air pollution. This is a matter of critical human health and safety. We ask you to reverse your decision to rescind the “once in, always in” policy, in order to safeguard future generations from harmful air pollutants. Thank you in advance for considering this timely and important request.

Sincerely,



DEBBIE DINGELL
Member of Congress



DONALD S. BEYER JR.
Member of Congress

⁵ Environmental Integrity Project, *Toxic Shell Game: EPA Reversal Opens Door to More Hazardous Air Pollution* (Mar. 26, 2018) (www.environmentalintegrity.org/wp-content/uploads/2017/02/Toxic-Shell-Game.pdf).

⁶ Environmental Defense Fund, *Pruitt’s New Air Toxics Loophole: An Assessment of Potential Air Pollution Impacts in the Houston-Galveston Region* (Apr. 10, 2018) (www.edf.org/sites/default/files/documents/OIAI-Houston%20case%20study%20FINAL.pdf).

⁷ *Id.*, at 2.

⁸ *Id.*



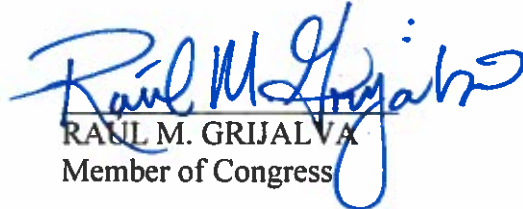
NANETTE DIAZ BARRAGÁN
Member of Congress



PAUL D. TONKO
Member of Congress



ELEANOR HOLMES NORTON
Member of Congress



RAUL M. GRIJALVA
Member of Congress



JERRY MCNERNEY
Member of Congress



MIKE QUIGLEY
Member of Congress



JAMIE RASKIN
Member of Congress



MARK POCAN
Member of Congress



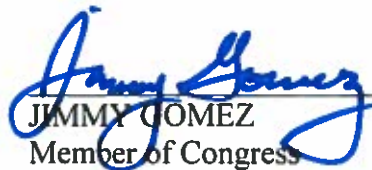
MATT CARTWRIGHT
Member of Congress



NYDIA M. VELÁZQUEZ
Member of Congress



BETTY MCCOLLUM
Member of Congress



JIMMY GOMEZ
Member of Congress



JARED HUFFMAN
Member of Congress



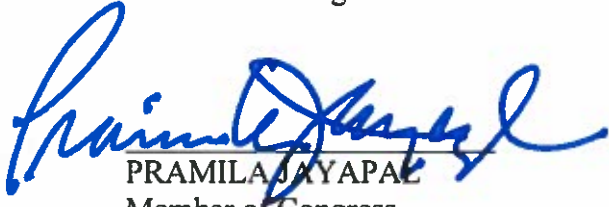
DIANA DeGETTE
Member of Congress



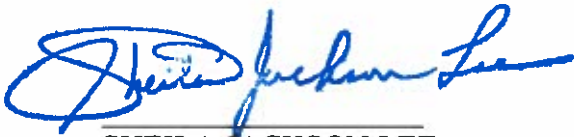
BILL FOSTER
Member of Congress



BOBBY L. RUSH
Member of Congress



PRAMILA JAYAPAL
Member of Congress



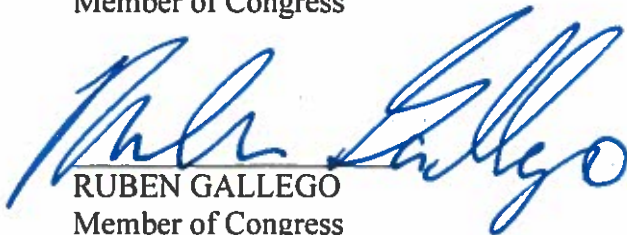
SHEILA JACKSON LEE
Member of Congress



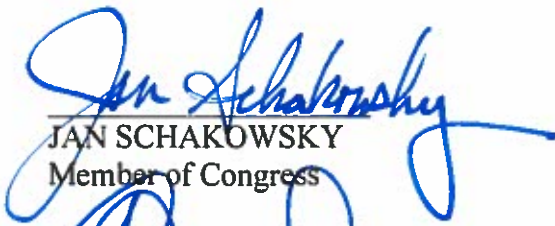
MARC KAPTUR
Member of Congress



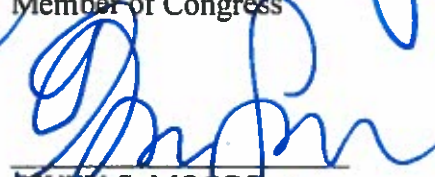
DANIEL W. LIPINSKI
Member of Congress



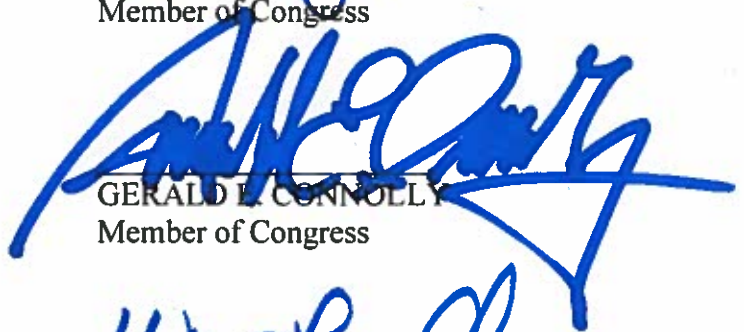
RUBEN GALLEGO
Member of Congress



JAN SCHAKOWSKY
Member of Congress



GWEN S. MOORE
Member of Congress



GERALD R. CONNOLLY
Member of Congress



WM. LACY CLAY
Member of Congress



FREDERICA S. WILSON
Member of Congress



GREGORIO KILILI CAMACHO SABLÁN
Member of Congress



JOHN SARBANES
Member of Congress



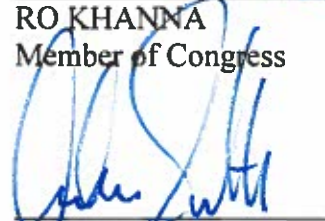
DORIS MATSUI
Member of Congress



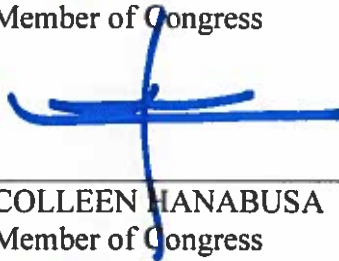
RO KHANNA
Member of Congress



SUZANNE BONAMICI
Member of Congress




ADAM SMITH
Member of Congress



COLLEEN HANABUSA
Member of Congress



DARREN SOTO
Member of Congress



JARED POLIS
Member of Congress



ALAN LOWENTHAL
Member of Congress



A. DONALD McEACHIN
Member of Congress



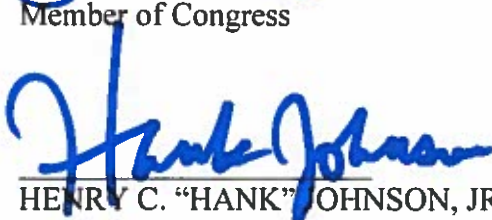
MARK TAKANO
Member of Congress



JAMES R. LANGEVIN
Member of Congress



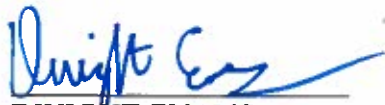
DONALD M. PAYNE, JR.
Member of Congress



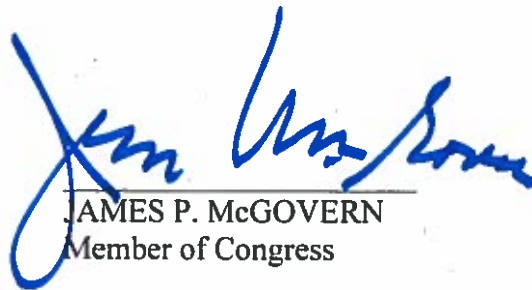
HENRY C. "HANK" JOHNSON, JR.
Member of Congress



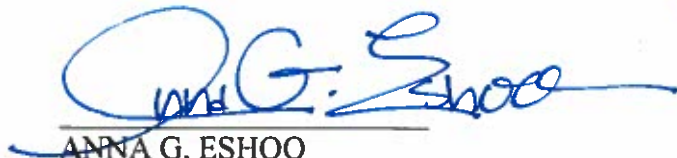
KEITH ELLISON
Member of Congress



DWIGHT EVANS
Member of Congress



JAMES P. McGOVERN
Member of Congress



ANNA G. ESHOO
Member of Congress



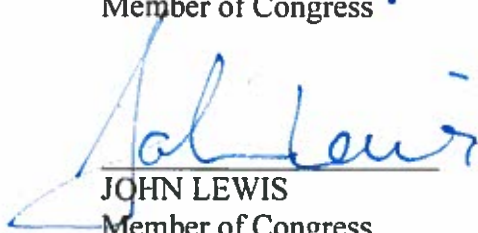
FRANK PALLONE, JR.
Member of Congress



MICHAEL E. CAPUANO
Member of Congress



SALUD O. CARBAJAL
Member of Congress



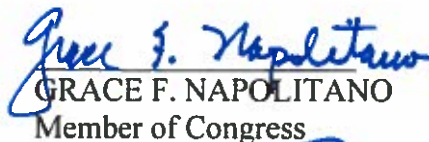
JOHN LEWIS
Member of Congress



JERROLD NADLER
Member of Congress



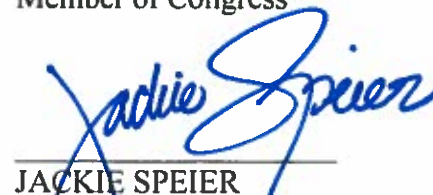
BONNIE WATSON COLEMAN
Member of Congress



GRACE F. NAPOLITANO
Member of Congress



ELIJAH E. CUMMINGS
Member of Congress



JACKIE SPEIER
Member of Congress



EARL BLUMENAUER
Member of Congress



RUBEN J. KIHUEN
Member of Congress



PETER WELCH
Member of Congress



RICK LARSEN
Member of Congress



TED W. LIEU
Member of Congress



ROSA L. DeLAURO
Member of Congress



ADAM SCHIFF
Member of Congress



BRENDA L. LAWRENCE
Member of Congress



JIMMY PANETTA
Member of Congress



ADRIANO ESPAILLAT
Member of Congress



DEBBIE WASSERMAN SCHULTZ
Member of Congress



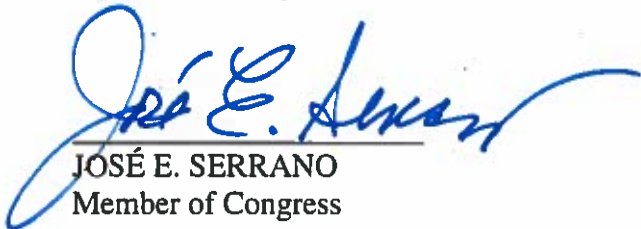
LUIS V. GUTIÉRREZ
Member of Congress



SUSAN A. DAVIS
Member of Congress



KATHY CASTOR
Member of Congress



JOSÉ E. SERRANO
Member of Congress



BRIAN HIGGINS
Member of Congress



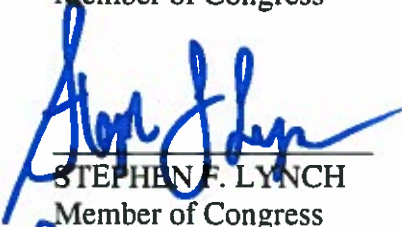
JOHN GARAMENDI
Member of Congress



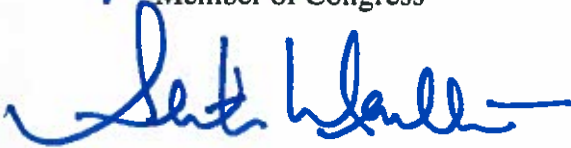
LINDA T. SÁNCHEZ
Member of Congress



BRENDAN F. BOYLE
Member of Congress



STEPHEN F. LYNCH
Member of Congress



SETH MOULTON
Member of Congress



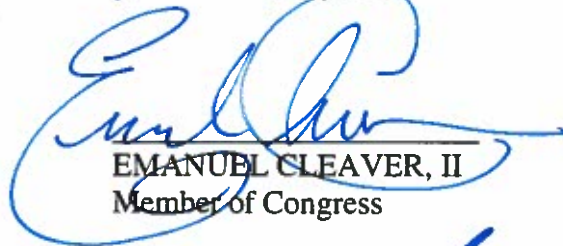
CAROL SHEA-PORTER
Member of Congress



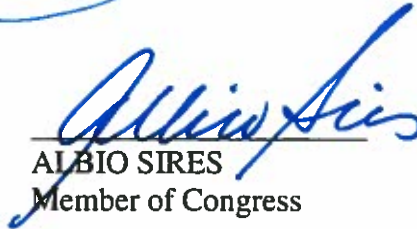
BEN RAY LUJÁN
Member of Congress



JOHN YARMUTH
Member of Congress



EMANUEL CLEAVER, II
Member of Congress



ALBIO SIRES
Member of Congress



JOSEPH P. KENNEDY, III
Member of Congress



DANIEL T. KILDEE
Member of Congress



MARK DeSAULNIER
Member of Congress



ELIZABETH H. ESTY
Member of Congress

The Honorable Scott Pruitt
April 25, 2018
Page 10



ZOE LOFGREN
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 09 2018

THE INSPECTOR GENERAL

The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Ranking Member Carper:

You wrote to us on March 28, 2018, to request that the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) conduct an immediate review of the EPA's oversight of its employee time and attendance practices. You specifically noted allegations that Ms. Samantha Dravis, Associate Administrator of the EPA's Office of Policy, did not work for much of November 2017 through January 2018 but was still compensated as a full-time employee. You asked that we review the allegations and any related systematic problems to ensure that the EPA has adhered to the corrective actions implemented subsequent to the criminal fraud committed by John Beale to ensure that it did not happen again. While Ms. Dravis has subsequently announced that she is leaving the EPA, the issues you raise would not be answered by her departure. After analyzing your request, we have decided to conduct the requested review.

As I have noted in previous letters to Congress, in determining whether the OIG can undertake requested work, initially we have to find that the matter is within our jurisdiction. But, beyond that threshold question, we have to determine whether we have sufficient resources—people, time and funds—to do a project in a timely fashion and whether it would preclude our doing other crucial work. The OIG has been funded at less than the levels we deem adequate to do all of the work that should be done, and we therefore have to make difficult decisions about whether to accept any given potential undertaking. Many of our projects are statutorily mandated work, with Congress adding new mandates each session. Further, our annual work plan, which is also statutorily mandated, uses a risk-based analysis that identifies dozens of additional high-impact projects. All of this means that for every discretionary review the OIG decides to undertake there will be others we cannot.

However, despite these constraints, we have determined that the issues raised in your letter are within the authority of the OIG to review and we will do so. We will inform you and your staff when we complete the review.

Thank you for your interest in the work of the OIG. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over a light blue circular stamp.

Arthur A. Elkins Jr.

United States Senate
WASHINGTON, DC 20510

April 10, 2018

The Honorable John Barrasso
Chairman
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso,

We write to request that the Senate Environment and Public Works (EPW) Committee immediately initiate bipartisan oversight hearings into the extent and justification of security spending for Environmental Protection Agency (EPA) Administrator Scott Pruitt. Documents provided to us by EPA official(s) suggest the agency has relied on questionable “threats” to the Administrator, including reports of non-violent protests, negative feedback about the Administrator’s actions, or other First Amendment protected activity, to justify millions of dollars in additional security spending, including first-class air travel, as compared to his predecessors at the agency. These non-public documents include security threat assessments from the United States Secret Service that identify no “reports of behaviors of interest” against Administrator Pruitt, and an internal EPA Intelligence Office report that disputes the Administrator’s claims that the nature of the threats against him justify his expenditures. We are providing this information to you under confidential cover in an abundance of caution to protect any specific ongoing security efforts.

Administrator Pruitt has adopted numerous, unprecedented safety measures during his tenure at EPA: 24-7 security staffed by a detail of as many as 20 EPA officers, first-class flights ostensibly to more effectively protect the Administrator while travelling by air, and a security sweep of and biometric locks for the Administrator’s office. The Associated Press reported this weekend that total security costs and associated travel expenses have already cost taxpayers \$3 million.¹

EPA spokesman Jahan Wilcox was quoted on April 6 as saying the Administrator and his family have faced an “unprecedented” number of death threats, a statement that was amplified the following day by President Trump who stated that “Scott Pruitt has received death threats because of his bold actions at EPA.”² In its March 21, 2018 response to a February 15, 2018 letter from Senators Tom Carper and Gary Peters about the Administrator’s first-class flights, EPA wrote that its Protective Security Detail (PSD) “has identified specific, ongoing threats associated with the Administrator’s air travel” and has relied on assessments from EPA’s Office of Inspector General (EPA OIG) that the Administrator is facing more security threats than his predecessor. These assertions do not appear to be consistent with the non-public EPA documents we have obtained and enclose here.

For example, one document we are providing to you is an October 17, 2017 memorandum from William Stull, Special Agent on the Administrator’s PSD, to Pasquale Nino Perrotta, the PSD’s

¹ Michael Biesecker, “AP sources: EPA chief spent millions on security and travel,” *The Associated Press*, April 7, 2018 <https://www.apnews.com/e2fdc3fe88be432792817795a34fda46>.

² https://twitter.com/realDonaldTrump/status/982770847046922240?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fwww.cnn.com%2F2018%2F04%2F07%2Fpolitics%2Ftrump-pruitt-epa-tweet%2Findex.html

Special Agent in Charge.³ The memo purports to summarize available threat information regarding Administrator Pruitt, claiming that the EPA OIG data showed 16 threats directed against the Administrator, a 400% increase over threats in the previous fiscal year against then-EPA Administrator Gina McCarthy. A closer look at the description of many of these threats cast doubt that they appropriately justify the kinds of security measures Mr. Pruitt has sought, as they include:

- Protestors attempting to disrupt a speech given by Mr. Pruitt at a closed event.
- A social media post in which an individual “stated he is not happy with some of the Administrator’s policies and wanted to express his displeasure.”
- A postcard sent to the Administrator stating “CLIMATE CHANGE IS REAL!!! We are watching you. For the sake of our planet, our children & our grandchildren, will you be a reasonable man? I repeat, we are watching you!”
- An email stating: “Hi, I am considering dumping the old paint I just scraped off of my home outside your office door on Tuesday.”
- A letter addressed to the Administrator that did not include “overt threatening language” from an incarcerated individual.

Notably, none of the incidents listed in this report concerned air travel and the only threat to Administrator Pruitt currently being prosecuted by a United States Attorney’s office was a threat made to him and his predecessor Gina McCarthy.

The October 17 assessment also states that at the time there were “no known investigations underway concerning threats to Scott Pruitt” by the Joint Terrorism Task Force, and that an open-source review of social media uncovered “no evidence of a direct threat to the Administrator’s life or physical well-being.”

We have also obtained, and are providing to you, a document dated February 14, 2018, from EPA’s Office of Homeland Security Intelligence Team titled “Preliminary Intelligence Enterprise Threat Assessment Review,” which reviewed the PSD’s October 17, 2017 memo. This memo concluded PSD’s October 17 memo “**DOES NOT** employ sound analysis or articulate relevant ‘threat specific’ information appropriate to draw any resource or level of threat conclusions regarding the protection posture for the Administrator.” (Emphasis in original.) The memo states that “[u]sing all source intelligence resources, **EPA Intelligence has not identified any specific credible direct threat to the EPA Administrator.**”⁴ (Emphasis in original.)

The February 2018 memo describes repeated efforts by EPA Intelligence officials to tell EPA OIG and EPA’s senior leadership that “the ‘threat’ to the Administrator was being inappropriately

³ We wrote to EPA on March 6, 2018, raising numerous concerns about Mr. Perrotta, including potential self-dealing, and questioning his ability to run a security consulting business while employed at EPA. We also raised concerns about how Mr. Perrotta came to be Special Agent in Charge, which have been heightened in light of recent reporting by the New York Times that Mr. Perrotta’s predecessor, Eric Weese, was removed from his position for when he “questioned Mr. Pruitt’s desire to use flashing lights and sirens in his motorcade.” See Eric Lipton, Kenneth P. Vogel, Lisa Friedman, “E.P.A. Officials Sidelined After Questioning Scott Pruitt,” *New York Times*, April 5, 2018. We have not yet received a response from EPA to that letter.

⁴ One role of this office “is to identify potential vulnerabilities, and to provide information and guidance to mitigate potential violent actions evolving from inappropriate communications and/or threats that are directed at EPA protected persons and facilities.” Apparently it has been excluded from assessments and decision-making related to the Administrator’s security. This suggests a breakdown of communication and coordination within EPA that should also be an area of inquiry by the EPW Committee.

mischaracterized by the Protective Service Detail (PSD) and the OIG” and notes that EPA Intelligence has “not seen any analysis to indicate why the Administrator would be at any greater risk on a commercial airline than any other passenger, or why a trained EPA PSD member could not protect the Administrator in a different location on the aircraft [than in the business or first-class section].”

EPA’s Intelligence Team requested from the United States Secret Service a “Direction of Interest Query” on February 21, 2017 and on February 22, 2018 for potential threats against Administrator Pruitt. Neither query returned any “reports of behaviors of interest directed toward EPA Administrator Pruitt.” We have provided you both United States Secret Service reports with this letter.

It is hard to reconcile the public statements of EPA, and the President, with these internal and external assessments. It may be that the materials we have been provided are incomplete and that EPA has additional information that justifies its public position. However, another view is that certain factions within EPA have justified the exorbitant taxpayer spending incurred by the Administrator’s first-class travel and large entourage of security personnel through unsubstantiated claims about threats to his security, either at the direction of the Administrator himself or others in the agency. Either way, the EPW Committee has a responsibility to look into these matters.

As you review this information, we urge you to remind EPA of its obligations under the Whistleblowers Protection Act, as amended. In our view, the documents provided to us may constitute evidence of a “violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”⁵ As such, any adverse personnel action against a person providing this information to Congress is prohibited, and it is in our shared interest that these rights be protected.

We thank you for your prompt attention to this matter, and look forward to working with you.

Sincerely,



Thomas R. Carper
United States Senator



Sheldon Whitehouse
United States Senator

cc: Arthur A. Elkins, Jr., Inspector General, Environmental Protection Agency

⁵ 5 U.S.C. 2302(b)

United States Senate

WASHINGTON, DC 20510

April 10, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
1301 Constitution Avenue NW, Room 3102
Washington, DC 20460

Dear Mr. Elkins,

We write to share our deep concern over Administrator Pruitt's reported use of multiple email accounts. We respectfully request that you open an investigation into whether he is complying with the Federal Records Act and EPA's Records Management Policy¹ when using these accounts. Our offices have received information indicating that the Administrator uses three different secret epa.gov email addresses in addition to his official email address: Pruitt.Scott@epa.gov. It is imperative that there be an investigation into whether the agency has properly searched these email addresses for responsive documents in response to Freedom of Information Act (FOIA) requests.

Since early 2017, the EPA has received thousands of Freedom of Information Act (FOIA) requests from the public asking for email records, including those from Administrator Pruitt. With the use of multiple secret email accounts or addresses, we are concerned that the Office of the Administrator may be withholding information from the public in violation of valid FOIA requests.

In 2013, your office recommended that the agency "develop and implement oversight processes to update agency guidance on the use of private email accounts, train employees and contractors on records management responsibilities, strengthen relationships between federal records preservation and employee out processing, and deliver a system to create federal records from the new system."² These steps are critical to maintaining transparency and ensuring that all public servants, including the Administrator, comply with federal regulations and recordkeeping responsibilities.

In December 2017, EPW staff was informed that the agency maintains three email addresses for the Administrator—one for public comment (Pruitt.Scott@epa.gov), one for scheduling, and one for "communicating"—and that all three addresses had been searched for documents responsive

¹ <https://www.epa.gov/irmpoli8/records-management-policy-define-epas-records-management-responsibilities>

² USEPA Office of Inspector General. "Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts." EPA Report No. 13-P-0433, September 26, 2013.

to FOIA searches. Following that December 2017 disclosure, we have been informed that the Administrator has at least four, not three, epa.gov email addresses. Further, we have learned that not all of these addresses may have been queried for responsive documents as FOIA requests are processed at the agency.

We request that you initiate an investigation into Administrator Pruitt's use of multiple secret email addresses. Please consider the following:

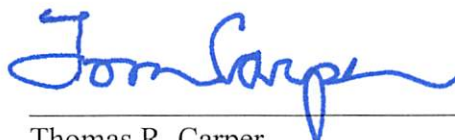
1. How many email addresses has Administrator Pruitt used since taking office, and on what date(s) was each address established?
2. Have any private email accounts been used to conduct government business by the Administrator, or has he directed his staff to use private emails to conduct business?
3. Have each of the email addresses and accounts used by the Administrator been indexed and searched consistent with Freedom of Information Act requirements, starting on the date the email address was created?
4. Have all the email accounts being used by Administrator Pruitt followed all applicable recordkeeping requirements?

Thank you very much for your attention and prompt response to this very important matter. If you have any questions or concerns, please contact Adrian Deveny on Senator Merkley's staff at (202) 224-3753 or Michal Freedhoff on the Democratic Staff of the Environment and Public Works Committee at (202) 224-8832.

Respectfully,



Jeffrey A. Merkley
United States Senator



Thomas R. Carper
United States Senator

to find / search. Following the first search, I have been informed that the
/department has at least 2,000 copies of the documents. I am sorry, we have learned that
not all of these documents may be of the type that you are looking for. The documents are
photo copy of the original.

We have a large number of copies of the documents that you are looking for. I am sorry, we have learned that
the documents are photo copy of the original.

1. The documents are photo copy of the original. I am sorry, we have learned that
the documents are photo copy of the original.

2. The documents are photo copy of the original. I am sorry, we have learned that
the documents are photo copy of the original.

3. The documents are photo copy of the original. I am sorry, we have learned that
the documents are photo copy of the original.

4. The documents are photo copy of the original. I am sorry, we have learned that
the documents are photo copy of the original.

I am sorry, we have learned that the documents are photo copy of the original. I am sorry, we have learned that
the documents are photo copy of the original. I am sorry, we have learned that the documents are photo copy of the original.

in person



Tom Garvey
Deputy Mayor



John A. Mallon
Mayor

United States Senate

WASHINGTON, DC 20510

April 10, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
1301 Constitution Avenue NW, Room 3102
Washington, DC 20460

Dear Mr. Elkins,

We write to share our deep concern over Administrator Pruitt's reported use of multiple email accounts. We respectfully request that you open an investigation into whether he is complying with the Federal Records Act and EPA's Records Management Policy¹ when using these accounts. Our offices have received information indicating that the Administrator uses three different secret epa.gov email addresses in addition to his official email address: Pruitt.Scott@epa.gov. It is imperative that there be an investigation into whether the agency has properly searched these email addresses for responsive documents in response to Freedom of Information Act (FOIA) requests.

Since early 2017, the EPA has received thousands of Freedom of Information Act (FOIA) requests from the public asking for email records, including those from Administrator Pruitt. With the use of multiple secret email accounts or addresses, we are concerned that the Office of the Administrator may be withholding information from the public in violation of valid FOIA requests.

In 2013, your office recommended that the agency "develop and implement oversight processes to update agency guidance on the use of private email accounts, train employees and contractors on records management responsibilities, strengthen relationships between federal records preservation and employee out processing, and deliver a system to create federal records from the new system."² These steps are critical to maintaining transparency and ensuring that all public servants, including the Administrator, comply with federal regulations and recordkeeping responsibilities.

In December 2017, EPW staff was informed that the agency maintains three email addresses for the Administrator—one for public comment (Pruitt.Scott@epa.gov), one for scheduling, and one for "communicating"—and that all three addresses had been searched for documents responsive

¹ <https://www.epa.gov/irmpoli8/records-management-policy-define-epas-records-management-responsibilities>

² USEPA Office of Inspector General. "Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts." EPA Report No. 13-P-0433, September 26, 2013.

to FOIA searches. Following that December 2017 disclosure, we have been informed that the Administrator has at least four, not three, epa.gov email addresses. Further, we have learned that not all of these addresses may have been queried for responsive documents as FOIA requests are processed at the agency.

We request that you initiate an investigation into Administrator Pruitt's use of multiple secret email addresses. Please consider the following:

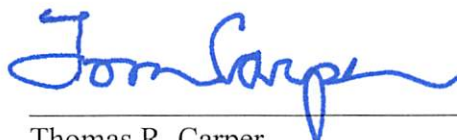
1. How many email addresses has Administrator Pruitt used since taking office, and on what date(s) was each address established?
2. Have any private email accounts been used to conduct government business by the Administrator, or has he directed his staff to use private emails to conduct business?
3. Have each of the email addresses and accounts used by the Administrator been indexed and searched consistent with Freedom of Information Act requirements, starting on the date the email address was created?
4. Have all the email accounts being used by Administrator Pruitt followed all applicable recordkeeping requirements?

Thank you very much for your attention and prompt response to this very important matter. If you have any questions or concerns, please contact Adrian Deveny on Senator Merkley's staff at (202) 224-3753 or Michal Freedhoff on the Democratic Staff of the Environment and Public Works Committee at (202) 224-8832.

Respectfully,



Jeffrey A. Merkley
United States Senator



Thomas R. Carper
United States Senator

equal to

Congress of the United States
Washington, DC 20510

April 12, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Dear Administrator Pruitt,

We write with grave concerns regarding information our staffs received during a meeting with Mr. Kevin Chmielewski, a long-time supporter and campaign aide of President Donald Trump, who served as your Deputy Chief of Staff for Operations at EPA. Based on the information he provided, we now request that you produce several categories of documents.

Mr. Chmielewski provided new details and corroborated other reports regarding allegations of wasteful spending of taxpayer funds and your disregard for the ethical and legal requirements of your position. Mr. Chmielewski described an environment in which you sought to marginalize, remove or otherwise retaliate against agency employees who advised you not to take these troubling actions, or refused to take or justify such actions at your direction.

Mr. Chmielewski claims that when he first started in his role as a politically appointed Senior Executive Service official at EPA, Chief of Staff Ryan Jackson informed him that “the nightmare is now yours.” Mr. Chmielewski said those words turned out to be accurate.

As Mr. Chmielewski learned more about your wasteful spending, irresponsible travel and inappropriate security efforts, he reported that he also learned that “every time you tried to find out about something you got in trouble.” He said that when he refused to approve your inappropriate and unethical spending, he claimed he was marginalized, removed from his senior position and placed on administrative leave. He said that he watched as others were punished, demoted, and retaliated against when they tried to resist inappropriate directions that came from you or through your favored staff.

What follows below is a more specific summary of the information Mr. Chmielewski provided our staffs during the meeting, as well as our request for documents:

Concerns About Wasteful Spending, Unethical Behavior, and Inappropriate Use of Resources and Personnel

- Mr. Chmielewski provided several examples of wasteful security spending beyond justifying the use of first-class travel under the guise of security. This includes the purchase of bulletproof vests and weapons, biometric locks, a security sweep of your office, one or more new SUVs for your travel (rather than obtaining vehicles from the

General Services Administration), and a \$30,000 contract with private Italian security personnel entered into by Mr. Nino Perrotta, the Special Agent who leads your security detail.¹ Mr. Chmielewski explained that at least one security-related contract was awarded to an individual who works at Mr. Perrotta's private security firm, and he believes that other contracts may also have been awarded to friends or associates of Mr. Perrotta's.

- Mr. Chmielewski told our staffs that you spent well beyond the \$5,000 allowed by law to decorate your office, including refinishing an antique desk, purchasing an additional standing desk, paying leases for art on loan from the Smithsonian Institution, framing an 8x10 foot United States flag, and building a \$43,000 soundproof phone booth.
- Mr. Chmielewski said that you have insisted on the use of lights and sirens to transport you more quickly through traffic to the airport, meetings, and social events on numerous occasions, and that you permitted your drivers to speed through residential neighborhoods and red lights, far in excess of posted speed limits.
- Mr. Chmielewski said that you had EPA's Director of Scheduling and Advance Millan Hupp act as your personal real estate representative, spending weeks improperly using federal government resources and time to contact rental and seller's agents, and touring numerous properties in which you might wish to reside.
- Mr. Chmielewski stated that for a period of weeks, he did not personally see Samantha Dravis, the former Associate Administrator for EPA's Office of Policy and one of your closest confidants, at EPA headquarters.
- Mr. Chmielewski disputed your definitive and public claims that you "didn't know" about controversial salary raises given to your favored aides, saying that those raises were "100% Pruitt himself." Mr. Chmielewski explained that he was called into your Chief of Staff's office and told that you wanted to move him out of his position in order to give Ms. Hupp his title and a pay increase. Mr. Chmielewski said he raised his concerns about this with White House Associate Director of Presidential Personnel Jennifer Locetta, who told him that the White House would not approve of Ms. Hupp being placed into the Deputy position and receiving that level of a raise. However, Mr. Chmielewski was moved out of his position and Ms. Hupp was given a \$28,130 raise using obscure hiring authority under the Safe Drinking Water Act.
- Mr. Chmielewski also provided our staffs with new evidence of your inappropriate rental arrangement. He explained that he was in your Chief of Staff's office when he heard a conversation on the speakerphone in which your landlord, energy lobbyist J. Steven Hart, was complaining that you had never paid any rent to him, and that your daughter damaged his hardwood floors by repeatedly rolling her luggage across the unit when she was staying there.

Concerns About Travel

¹ Mr. Chmielewski stated that a heavily redacted document released by EPA under FOIA listing \$30,553.88 in "Expenditures" for this trip likely provided evidence of this contract. See <https://www.environmentalintegrity.org/news/italy-travel-security-costs/>.

- Mr. Chmielewski said that Ms. Hupp, at your direction, sought to have the agency enter into a \$100,000 per month contract to rent a private jet, which would have cost more than the Administrator's annual travel budget of approximately \$450,000. Mr. Chmielewski claimed he successfully prevented this from occurring, as it would have been far in excess of the total travel budget of the office.
- Mr. Chmielewski said he observed that your travel destinations are often dictated by your desire to visit particular cities or countries rather than official business, and that you tell your staff to "find me something to do [in those locations]" to justify the use of taxpayer funds. He stated that you direct your staff to book flights on Delta, even when they are not the federal government's contract carrier for the route, because you want to accrue more frequent flyer miles.
- He also informed our staffs that you directed your staff to find reasons for you to travel to Oklahoma, so that you could be in your home state for long weekends at taxpayers' expense. Mr. Chmielewski described the official meetings in Oklahoma as being pretextual, such as scheduling an official meeting with an old friend.
- According to Mr. Chmielewski, you frequently stayed in hotels that exceeded the allowable U.S. government per diem, sometimes even exceeding the 300 percent cap permitted in exceptional circumstances. He added that while you were reimbursed for these expenses, on some occasions members of your security detail were not reimbursed for the portion of their expenses that exceeded allowable maximums.
- On at least two occasions when planning international trips to Australia and Italy, Mr. Chmielewski claimed that you refused to stay at hotels recommended by the U.S. Embassy, although the recommended hotel had law enforcement and other U.S. resources on-site. He alleged you chose to stay instead at more expensive hotels with fewer standard security resources, and to bring your security team with you, at taxpayer expense.
- After your Chief of Staff raised concerns about your travel, Mr. Chmielewski reported that you texted the Chief of Staff to tell him that his presence was no longer welcome at scheduling meetings for your travel. Mr. Chmielewski further described your effort to marginalize your Chief of Staff as he refused to follow some actions you directed, and he described Ms. Hupp and Sarah Greenwalt, your senior counsel, as running the agency.
- Mr. Chmielewski reported that you provided approval for Ms. Dravis to fly first-class with you on your return trip from Morocco in December 2017, even though there was no legal justification for her to do so. Mr. Chmielewski said that he refused to retroactively sign paperwork after the trip justifying that decision because it violated federal travel regulations. Mr. Chmielewski claimed that Ms. Dravis and Ms. Hupp each separately told Mr. Chmielewski that you had approved the decision, and asked him to reconsider, but he did not. He added that another employee ultimately agreed to justify the decision.

According to Mr. Chmielewski, his refusal to retroactively approve Ms. Dravis's first-class return flight from Morocco appears to him to have been the final straw that caused you to remove him. He told our staffs that following his refusal, Chief of Staff Ryan Jackson called Mr. Chmielewski into his office and informed him that you wished to fire or reassign him. In addition, Mr. Chmielewski explained that EPA's White House Liaison, Charles Munoz, also informed him in February 2018 that you wanted him to resign when he returned from a trip to Japan to staff Vice-President Pence.

When Mr. Chmielewski returned from Japan, he said that your head of security, Mr. Nino Perrotta, sought to have his credentials for entering the EPA building confiscated. According to Mr. Chmielewski, during a call that included Mr. Munoz, Mr. Perrotta said that he was going to go to Mr. Chmielewski's home and forcibly retrieve his EPA parking pass and that he "didn't give a f—k who is on this call". Mr. Chmielewski found the statements to be threatening and reported them to the local police, the White House Office of Presidential Personnel and numerous EPA officials.

Mr. Chmielewski has been on administrative leave since that time, although he said he recently read news reports that his employment may have been terminated. Mr. Chmielewski explained that other employees have had similar experiences. For example, he reported that when the Director of EPA's Office of Administrative and Executive Services Reginald Allen refused to authorize some of your exorbitant spending, his responsibilities were removed.

Conclusion and Request for Documents

Although your spokesperson has repeatedly described those who raise concerns about your actions as "disgruntled employees" whose stories should not be believed, our staffs found Mr. Chmielewski to be a credible professional who continues to express deep loyalty to the President and Vice-President. He came forward because, as he said, "right is right, and wrong is wrong."

The new information provided by Mr. Chmielewski, if accurate, leaves us certain that your leadership at EPA has been fraught with numerous and repeated unethical and potentially illegal actions on a wide range of consequential matters that you and some members of your staff directed.

Mr. Chmielewski informed us that emails, documents and other records exist that will verify these events. Consequently, we request that you provide us with copies of all documents, including emails, meeting minutes, memos, correspondence, and other materials related to all of the matters raised in this letter to the extent such documents exist. For the reasons set forth above, we request that you provide the following documents for the time period of January 20, 2017 to the present date:

1. All documents and communications referring or relating to the purchase or potential purchase of security items to support the Administrator's security, including but not limited to bulletproof vests, weapons, biometric locks or similar locking devices, bulletproof vehicles, and SUVs;
2. All documents and communications referring or relating to the hiring or potential hiring of Sequoia Security Group, anyone associated with Sequoia Security Group, or any other non-federal entity providing security for the Administrator;
3. All documents and communications referring or relating to the hiring of security contractors or foreign nationals to support Administrator Pruitt's trip to Italy;
4. All documents and communications referring or relating to the costs of decorating and/or otherwise furnishing Administrator Pruitt's office, including but not limited to the refinishing costs of the Administrator's desk, the purchase of a standing desk, the leasing


and/or costs of borrowing art from the Smithsonian Institution or any other party, the framing of a United States flag, and the purchase of a coffee maker for the use of Administrator Pruitt;

5. All documents and communications referring or relating to the construction and financing of a secure, classified or soundproof space in Administrator Pruitt's office;
6. All documents and communications referring or relating to the use of lights and sirens by Administrator Pruitt's security detail;
7. All documents and communications referring or relating to Millan Hupp's assistance with the Administrator's rental or purchase of real estate, including but not limited to contacts with any rental or seller's agents, travel to and from rental properties, and documents showing the time spent on this project;
8. All documents and communications referring or relating to any absence from work by Samantha Dravis;
9. All documents and communications referring or relating to any potential contracts or signed contracts to rent and/or lease a private jet for Administrator Pruitt's use or the use of any other EPA employee;
10. A complete and unredacted copy of Administrator Pruitt's calendar for his June 2017 trip to Rome as well as all documents and communications referring or relating to Administrator Pruitt's June 2017 trip to Italy;
11. All documents and communications referring or relating to Samantha Dravis's travel to and/or from Morocco in December 2017, including the justification for her first class and/or business class travel;
12. All documents and communications referring or relating to employee travel to Oklahoma, including the travel of Administrator Pruitt;
13. All documents and communications referring or relating to Nino Perrotta's authority to justify his own first-class or business class travel;
14. All documents and communications referring or relating to Administrator Pruitt exceeding per diem limits, including documents and communications referring or relating to members of Administrator Pruitt's security detail not being reimbursed because of the expenses incurred by Administrator Pruitt;
15. All documents and communications referring or relating to the decision to fire, place on administrative leave, or reassign Kevin Chmielewski or Reginald Allen, including but not limited to any documents or communications regarding removing Mr. Chmielewski's credentials, parking pass, computer, secure phone, or other equipment;
16. All documents and communications referring or relating to the current employment status of Kevin Chmielewski;
17. All documents and communications referring or relating to the decision to promote and/or increase the pay of Millan Hupp and Sarah Greenwalt;
18. All documents and communications referring or relating to the Administrator's lease, rental, or purchase of property in the Washington, DC metropolitan area, including but not limited to ethics opinions or advice, evidence of payment or lack of payment, and complaints made of the Administrator or his family and associates; and
19. All documents and communications referring or relating to the Administrator, his staff, and his security team's use of hotel rooms on domestic and international travel, including the costs and the security of those rooms.

The Honorable Scott Pruitt, Administrator
Page 6

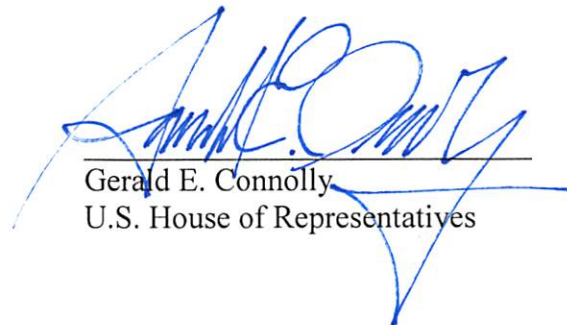
If any of the documents requested contain personal or law enforcement sensitive information, please specify arrangements for us to review these documents in unredacted form. We request that you provide these documents by April 25, 2018.

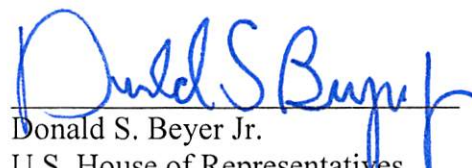
Sincerely,


Thomas R. Carper
U.S. Senate


Sheldon Whitehouse
U.S. Senate


Elijah Cummings
U.S. House of Representatives


Gerald E. Connolly
U.S. House of Representatives


Donald S. Beyer Jr.
U.S. House of Representatives

cc:

Senator John Barrasso, Chairman of the Senate Committee on Environment and Public Works
Congressman Trey Gowdy, Chairman of the House Committee on Oversight and Government Reform

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

April 13, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Pruitt:

The Committee recently became aware of new information regarding your official travel and February 2017 lease agreement. In light of this new information, we request the following documents and information:

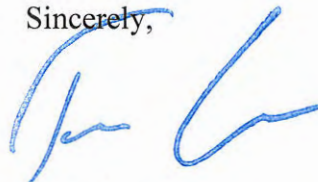
1. All documents and communications referring or relating to the official agency travel of EPA Senior Special Agent Pasquale "Nino" Perrotta between February 17, 2017, and April 13, 2018;
2. All documents and communications referring or relating to your complete itinerary for the June 2017 trip to Italy, including, but not limited to, your daily official calendar for June 7 to June 11, 2017, and travel vouchers for all EPA employees who accompanied you on the trip;
3. All documents and communications referring or relating to the hiring of a private Italian security firm for your trip to Italy;
4. All documents and communications referring or relating to your complete itinerary for the December 2017 trip to Morocco, including, but not limited to, your daily official calendar for December 9 to December 13, 2017, and travel vouchers for all EPA employees who accompanied you on the trip;
5. All documents and communications referring or relating to the decision to increase your level of security to 24-hour protection;
6. All documents and communications referring or relating to contracts between the EPA and private entities to perform security sweeps of your office; and
7. Documents and communications sufficient to identify the official who made the determination 24-hour protection was necessary.

Please provide the requested documents and information as soon as possible but no later than April 27, 2018. An attachment to this letter provides additional instructions about responding to this request. In addition, contact the Committee by April 27, 2018, to schedule transcribed interviews with the following individuals:

1. Ryan Jackson, Chief of Staff;
2. Kevin Chmielewski, Deputy Chief of Staff;
3. Pasquale "Nino" Perrotta, Senior Special Agent;
4. Millian Hupp, Director of Scheduling and Advance; and
5. Sarah Greenwalt, Senior Counsel.

Please contact Caroline Nabity of the Majority staff at (202) 225-5074 with any questions. We also look forward to receiving the additional documents and information requested in the Committee's February 20 and April 11, 2018, letters. Thank you for your attention to this matter.

Sincerely,



Trey Gowdy

Enclosures

cc: The Honorable Elijah E. Cummings

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
115TH CONGRESS**

NOTICE OF APPEARANCE OF COUNSEL

Counsel submitting: _____

Bar number: _____ **State/District of admission:** _____

Attorney for: _____

Address: _____

Telephone: (_____) _____ - _____

Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the undersigned as counsel for _____ in (select one):

All matters before the Committee

The following matters (describe the scope of representation):

All further notice and copies of papers and other material relevant to this action should be directed to and served upon:

Attorney's name: _____

Attorney's email address: _____

Firm name (where applicable): _____

Complete Mailing Address: _____

I agree to notify the Committee within 1 business day of any change in representation.

Signature of Attorney

Date

Congress of the United States

Washington, DC 20510

April 23, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We write to update you on some troubling developments regarding Environmental Protection Agency (EPA) Administrator Scott Pruitt's security spending and personnel decisions and to provide you documents we have obtained that shed further light on these matters.

Last week, the Government Accountability Office (GAO) concluded that the expenditure of \$43,000 to construct a soundproof phone booth in the Administrator's office violated both Section 710 of the Financial Services and General Government Appropriations Act of 2017 and the Antideficiency Act. Administrator Pruitt informed members of Congress that he needed a "secure phone line" in his office in order to communicate with the White House.¹

EPA claimed to GAO that the phone booth "not only enables the Administrator to make and receive phone calls to discuss sensitive information, but it also enables him to use this area to make and receive classified telephone calls (up to the top secret level) for the purpose of conducting agency business."²

Documents provided to us from within EPA indicate that as of March 2017, the Administrator's office was not cleared for classified communications. The phone booth, which was installed months later, appears to be a "privacy booth"³ installed by a vendor that describes itself as a "manufacturer and distributor of acoustical products" whose mission is "to solve sound and noise control problems to improve every environment of your life."⁴

Even if the phone booth itself is authorized to receive top secret communications, that would mean classified information is being received in an otherwise not-secured location, preventing the Administrator from discussing it with any other cleared person. EPA already has two Sensitive Compartmented Information Facilities (known as "SCIFs") in its Washington D.C. headquarters, which do not suffer from this infirmity. While GAO drew "no conclusions regarding whether the installation of the privacy booth was the only, or the best, way for EPA to

¹ *EPA Chief Sweeps Office for Bugs, Installs High-Tech Locks*, USA Today (Dec. 19, 2017) (online at www.usatoday.com/story/news/politics/2017/12/19/epa-chief-sweeps-office-bugs-installs-high-tech-locks/965315001/).

² Letter from Government Accountability Office to Senator Tom Carper et al. (Apr. 16, 2018) (online at www.gao.gov/assets/700/691272.pdf).

³ USASpending.gov, *Acoustical Solutions, LLC EP17H000248* (effective date Aug. 30, 2017) (online at www.usaspending.gov/#/award/14262726).

⁴ *About Us*, Acoustical Solutions (online at <https://acousticalsolutions.com/about-us/>).

provide a secure telephone line for the Administrator,”⁵ we believe that to be an important topic for further investigation by Congress.

In addition, we are providing unclassified but non-public documents that also cast doubt on EPA’s spending on enhanced security measures and the process used for obtaining them. Senators Carper and Whitehouse have previously written to EPA with concerns that Pasquale “Nino” Perrotta, the Acting Special Agent in Charge of Administrator Pruitt’s security detail, improperly directed a contract to his business partner Edwin Steinmetz.⁶

- In an email dated February 27, 2017, a senior official in the Facilities Management and Services Division of the Office of Administration and Resources Management (OARM) wrote that “the Administrator made a request through his personal security detail...who reached out to OARM for support in doing a ‘sweep’ of the Administrator’s office.” The official wrote that “the National Security Council provides a number of regulations regarding TSCMs for the Federal Government and its employees.”⁷ That same day, Mr. Perrotta responded, writing, “Please wait on any further movement on this thanks! The front office will advise shortly.”
- On or about March 3, 2017, an electronic sweep of Administrator Pruitt’s office was conducted under a contract awarded to Edwin Steinmetz, who is a partner with Mr. Perrotta in the Sequoia Security Group. We have been informed that this contract may have been paid for through the use of an EPA credit card without first obtaining the required pre-approval. The non-public documents we are providing today include Mr. Steinmetz’s March 3, 2017, “Technical Surveillance Countermeasures Privacy Protection Audit.” His report found that “no covert surveillance devices were present.”
- EPA’s Office of Homeland Security provided a copy of the Steinmetz report to a senior TSCM technical expert in the federal intelligence community (outside EPA). Based in part on information received from that expert, EPA’s Office of Homeland Security concluded in late April 2017 that the sweep was “very basic and cursory” and “did not employ the equipment, proper certification, or necessary processes to be approved by the USG for certifying a USG facility or space for classified information systems or classified discussion.”
- EPA Office of Homeland Security officials transmitted its report to seven EPA officials, including John Reeder, Reginald Allen, John Martin, and Mario Caraballo. Each of these named individuals reportedly has been reassigned or otherwise retaliated against for questioning Administrator Pruitt’s spending or security measures.⁸

⁵ Letter from Government Accountability Office to Senator Tom Carper et al. at p. 6-7.

⁶ Letter from Senator Tom Carper and Senator Sheldon Whitehouse to EPA Administrator Scott Pruitt (Mar. 6, 2018) (online at <https://www.whitehouse.senate.gov/news/release/whitehouse-carper-raise-red-flags-about-epa-contract-with-business-partner-of-pruitts-security-chief>).

⁷ TSCM refers to “technical surveillance countermeasures,” the process of bug-sweeping or electronic countersurveillance.

⁸ *EPA Removes Staffer Whose Report Questioned Pruitt’s Security Needs: Report*, The Hill (Apr. 10, 2018) (online at <http://thehill.com/policy/energy-environment/382529-epa-removes-staffer-whose-report->

These new documents raise serious questions about EPA's security expenditures. They also raise questions about the role Mr. Perrotta played selecting Mr. Steinmetz for a security sweep, particularly after being advised by EPA officials that such sweeps are governed by National Security Council regulations.

In our view, the documents provided to us may constitute evidence of a "violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."⁹ As such, any adverse personnel action against a person providing this information to Congress is prohibited under the Whistleblower Protection Act, and it is in our shared interest that these rights be protected.

Given the latest developments and these new documents, we believe these and related matters are ripe for additional document requests to EPA and that Administrator Pruitt should testify about all of these matters immediately. We thank you for your prompt attention and look forward to working with you.

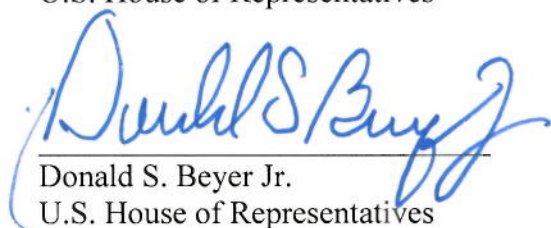
Sincerely,


Thomas R. Carper
U.S. Senate


Sheldon Whitehouse
U.S. Senate


Elijah Cummings
U.S. House of Representatives


Gerald E. Connolly
U.S. House of Representatives


Donald S. Beyer Jr.
U.S. House of Representatives

cc: Chairman John Barrasso, Senate Committee on Environment and Public Works

questioned-pruitts-security-needs); *E.P.A. Officials Sidelined After Questioning Scott Pruitt*, New York Times (Apr. 5, 2018) (online at www.nytimes.com/2018/04/05/business/epa-officials-questioned-scott-pruitt.html).

⁹ 5 U.S.C. 2302(b)

Congress of the United States
Washington, DC 20515

April 24, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General (IG)
Office of Inspector General (OIG)
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Inspector General Elkins:

We write with concerns about the governance of the EPA's Superfund program, and about Albert Kelly, the official Administrator Scott Pruitt assigned to oversee it. The Superfund is responsible for cleanup of toxic waste sites in nearly every state, and receives over one-tenth of the EPA's total budget. Mr. Kelly came to this position without the necessary qualifications, and with serious and still-unexplained red flags, and his conduct has raised ethical, regulatory and potential legal issues that we believe your office should examine.

At the time of his appointment by Administrator Pruitt, Mr. Kelly's resume showed no qualifications related to environmental regulation nor to the oversight of a government agency. His career experience was nearly all in banking, until the FDIC issued an "Order of Prohibition from Further Participation" against him – a lifetime ban, as well as a fine of \$125,000.¹² Mr. Kelly's only apparent connections to environmental regulation were his investments in companies deemed by the EPA to be responsible for the creation of Superfund sites and his longstanding friendship and financial relationship with Administrator Pruitt.³ His family-owned bank—of which he was the President, CEO, and later Chairman--provided four substantial loans to Scott Pruitt in 2003 and 2004, totaling nearly \$1 million dollars.⁴ On May 9, 2017, Albert Kelly was fined \$125,000 by the Federal Deposit Insurance Corporation (FDIC) because the FDIC "ha[d] reason to believe that [Kelly] violated a law or regulation, by entering into an agreement pertaining to a loan by [his] Bank without FDIC approval."⁵ On May 22, 2017, in a memo to senior advisors, Administrator Pruitt outlined a plan to prioritize the Superfund program, which he deemed "at the center of the agency's core

¹ https://www.cenews.net/assets/2017/05/26/document_gw_04.pdf

² <https://www.apnews.com/649fb04caa70402789c667792019a0f5>

³ <https://www.politicopro.com/energy/whiteboard/2018/02/pruitt-superfund-adviser-has-significant-energy-income-holdings-655922>

⁴ <https://theintercept.com/2017/12/28/scott-pruitt-failed-banker-running-epa-superfund-program/>

⁵ Stipulation and Consent to the Issuance of an Order to Pay, In the Matter of ALBERT C. KELLY, individually, and as an institution-affiliated party of SPIRITBANK, TULSA, OKLAHOMA, Federal Deposit Insurance Corporation (FDIC), FDIC-15-0180k, May 9, 2017.

mission,” and created a Superfund Task Force, which he announced would be chaired by his longtime donor and loan provider Albert Kelly.⁶ On June 23, 2017, two weeks after Mr. Kelly’s appointment began, he was converted to a non-career Senior Executive Service (SES) position in the EPA.

On July 27, 2017, the FDIC issued new findings against Albert Kelly and permanently banned him from the banking industry.⁷ The FDIC had reason to believe that Albert Kelly (a) “has engaged or participated in a violation of law or regulation, unsafe or unsound practice, and/or breach of fiduciary duty.” The FDIC’s order determined that these violations demonstrated Mr. Kelly’s “unfitness to serve as a director, officer, person participating in the conduct of the affairs or as an institution-affiliated party of the Bank, [or] any other insured depository institution....”⁸

Despite such a severe action from a federal financial institution, Mr. Kelly now oversees a landmark environmental program with a budget of one billion dollars. We urge you to investigate his fitness to manage the EPA Superfund program and whether his appointment followed appropriate procedures, given the serious findings and disciplinary action by the FDIC.

As an applicant to a position as a senior official in the federal government, Mr. Kelly’s behavior should have been the subject of a “suitability” review. According to the federal Office of Personnel Management (OPM) “determinations of ‘suitability’ are based on “an individual’s character or conduct that may have an impact on the integrity or efficiency of the service.”⁹ The FDIC findings regarding Mr. Kelly should have weighed heavily on any appointment. Even if Mr. Kelly was cleared for employment with EPA prior to the FDIC’s findings against him, the questions raised by the FDIC should have warranted a new review.

In addition to serious concerns about Mr. Kelly’s suitability to enter government service, it appears that now, as a senior official at EPA, his practices already may have violated EPA policy. According to media reports and a Department of Justice (DOJ) response to a Freedom of Information Act (FOIA) request for EPA documents, under Kelly’s leadership, the Superfund Task Force which he oversees has failed to document its meetings or properly record its activities.¹⁰ The creation, retention, and provision of public access to federal records generated by the task force is required under the Federal Records Act and the EPA’s own Records Management Policy.¹¹ Such records are of great importance because they document the point of origin for policy proposals by the Superfund Task Force, and whether such proposals are conceived and advanced by political staff, scientific advisers, or industry. Transparency and public accountability on such matters have been recurring problems for Administrator Pruitt’s team, and in this case may have included the violation of regulations or even federal law.

⁶ https://www.epa.gov/sites/production/files/2017-05/documents/prioritizing_the_superfund_program_memo_5-22-2017.pdf

⁷ <https://www.apnews.com/649fb04caa70402789c667792019a0f5>

⁸ Order of Prohibition from Further Participation, In the Matter of ALBERT C. KELLY, individually, and as an institution-affiliated party of SPIRITBANK, TULSA, OKLAHOMA, Federal Deposit Insurance Corporation (FDIC), FDIC-15-0179e, July 27, 2017.

⁹ <https://www.opm.gov/investigations/suitability-executive-agent/policy/decision-making-guide.pdf>

¹⁰ <https://apnews.com/64759348d0da4c7b8ebff04570d26f71>

¹¹ <https://www.epa.gov/sites/production/files/2015-03/documents/cio-2155.3.pdf>

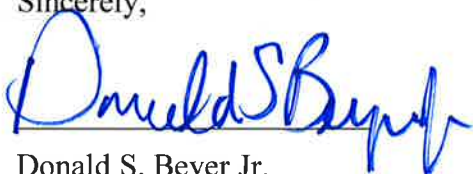
Based on the information above, we request that the EPA's Office of Inspector General (OIG) investigate the following matters:

- Did Mr. Kelly appropriately disclose to EPA and/or OPM that he was under investigation by FDIC when he was hired as Administrator Pruitt's senior advisor on April 23, 2017?
- Did Mr. Kelly violate any federal ethical guidelines, regulations, statutes or laws related to failure to disclose details of the FDIC investigation into his improper banking activities?
- Did EPA officials conducting Mr. Kelly's background investigation and suitability review adequately vet his background, including contacting the FDIC?
- Given the FDIC's ultimate decision on July 27, 2017, to ban Albert C. Kelly from the banking industry, did EPA seek a new suitability review of Mr. Kelly?
- Did EPA Administrator Pruitt, or any other senior EPA officials, interfere with the Agency's background investigation or suitability review of Mr. Kelly?
- Whom did Mr. Kelly consult in the process of drafting his May 22 list of recommendations?¹² Did any of those recommendations include requests made to Mr. Kelly by entities regulated by the EPA, or their advocates?
- Did Mr. Kelly ask or advise Superfund staff not to keep proper records of their meetings?
- Did Mr. Kelly, or any other EPA official, violate the Federal Records Act (FRA) or EPA records policies or practices regarding the creation and retention of federal records that should have been created and maintained by the Superfund Task Force?

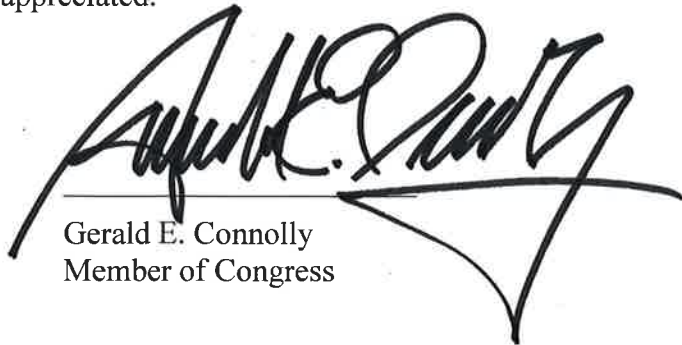
To discuss this request in more detail or to answer any questions please have your staff contact Lauren Sarkesian of my staff at (202) 226-0055.

Your assistance in this matter is greatly appreciated.

Sincerely,



Donald S. Beyer Jr.
Member of Congress



Gerald E. Connolly
Member of Congress

¹² https://www.epa.gov/sites/production/files/2017-07/documents/superfund_task_force_report.pdf

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
CHRIS VAN HOLLEN, MARYLAND

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

April 25, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency (EPA)
1200 Pennsylvania Ave. NW
Washington, DC 20004

Dear Administrator Pruitt:

We write to request that you immediately clarify your knowledge of and approval for the raises given to two of your top aides, Sarah Greenwalt and Millan Hupp, in light of the accumulating statements and an email that contradict your assertion that you knew nothing about the raises.

On April 16, the EPA Inspector General confirmed¹ in a Management Alert that Ms. Greenwalt (referred to as Employee A in the Management Alert) received raises totaling \$66,244 or 67%, and Ms. Hupp (referred to as Employee B in the Management Alert) received raises totaling \$48,080 or 72.3%, since they were hired in March 2017.

The most recent April 1, 2018 raises for these two aides (\$56,765 for Greenwalt and \$28,130 for Hupp) were approved using authority under the Safe Drinking Water Act, reportedly after the White House rejected granting the raises using different personnel authority. When you were asked about these raises in an April 4 interview² on *Fox News*, you emphatically denied giving Greenwalt and Hupp raises and claimed that “[your] staff” was responsible for the pay raises at issue and that you only “found out about the issue yesterday” (April 3, 2018).

Your statement seems to be in direct conflict with emails and statements made by several other EPA officials. For example:

- On April 5, the *Washington Post* reported³ that “two EPA officials confirmed that Pruitt endorsed the idea last month of giving substantial raises to senior counsel Sarah Greenwalt and scheduling and advance director Millan Hupp — although he did not carry out the pay raise himself.”

¹ https://www.epa.gov/sites/production/files/2018-04/documents/_epaoig_20180416-18-n-0154.pdf

² Barnini Chakraborty, “EPA’s Scott Pruitt pushes back on pay raise, condo controversy in Fox News exclusive,” *Fox News* (April 4, 2018), <http://www.foxnews.com/politics/2018/04/04/epas-scott-pruitt-pushes-back-on-pay-raise-condo-controversy-in-fox-exclusive.html>

³ https://www.washingtonpost.com/news/energy-environment/wp/2018/04/05/top-epa-ethics-official-says-he-lacked-key-facts-about-pruitts-condo-rental/?utm_term=.e01c115a7e3e


- On April 6, we received information similar to that received by the *Washington Post* from a third EPA official.
- On April 9, *The Atlantic*⁴ reported that two EPA officials confirmed the existence of an email from Ms. Greenwalt that asserted that you approved her raise.
- On April 10, Mr. Kevin Chmielewski, a long-time supporter and campaign aide of President Donald Trump who also served as your Deputy Chief of Staff for Operations at EPA, told us that the raises were “100% Pruitt himself.” He also explained that earlier this year he was called into your Chief of Staff’s office and told that you wanted to move him out of his position in order to give Ms. Hupp his title and a pay increase.
- A February 27, 2018 email⁵ (attached) from Ms. Greenwalt to EPA’s human resources personnel states that “I have not seen any documentation that will reflect an increase in salary as previously discussed with the Administrator.”

In light of these accumulating reports, it seems difficult to believe that you neither knew about nor supported these large raises for Ms. Greenwalt and Ms. Hupp, even if you, as the Administrator of an agency that employs about 15,000 people, did not personally fill out the paperwork that awarded them. In addition to the requests we made regarding this matter on April 9, we ask that by close of business on Wednesday, April 25, you provide clear responses to the following questions.

1. Did you, at any time prior to February 27, 2018, indicate to Ms. Greenwalt that you supported a salary increase for her? If not, do you believe that Ms. Greenwalt’s February 27 email was a falsehood?
2. Did you, at any time, indicate that you wished to give Ms. Hupp a salary increase or a promotion to Deputy Chief of Staff for Operations (or any other position)?

Should you have any questions, do not hesitate to contact Dan Dudis at dan_dudis@whitehouse.senate.gov or Michal Freedhoff at Michal_Freedhoff@epw.senate.gov.

Sincerely yours,


Thomas R. Carper
Ranking Member


Sheldon Whitehouse
United States Senator

⁴ <https://www.theatlantic.com/politics/archive/2018/04/pruitt-epa-raises/557561/>

⁵ A copy of this email was published by *The Washington Post* on April 20, 2018

[REDACTED]
HR Specialist
U.S. Environmental Protection Agency
OARM/HRMD-RTP
109 T.W. Alexander Drive, Mail Code C639-02
Research Triangle Park, NC 27711
[REDACTED]

OARM-RTP

SERVE SOLVE COLLABORATE



CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(s) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

From: Greenwalt, Sarah
Sent: Tuesday, February 27, 2018 10:45 AM
[REDACTED]
Subject: RE: OF-306 Needed for Reassignment

Thank you [REDACTED] I will work on this expeditiously. I have not seen any documentation that will reflect an increase in salary as previously discussed with the Administrator. Can you please send that documentation as well before I fill out this form?

Many thanks.

From: [REDACTED]
Sent: Tuesday, February 27, 2018 7:57 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: OF-306 Needed for Reassignment

Hi Sarah,

I'm following up on the request below. Please return your OF-306 to me as soon as possible. Let me know if you have any questions.

Thanks,
[REDACTED]

[REDACTED]
HR Specialist
U.S. Environmental Protection Agency
OARM/HRMD-RTP
109 T.W. Alexander Drive, Mail Code C639-02
Research Triangle Park, NC 27711
[REDACTED]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 25 2018

THE INSPECTOR GENERAL

The Honorable Don Beyer
House of Representatives
Washington, D.C. 20515

Dear Congressman Beyer:

The U.S. Office of Government Ethics (OGE) has the statutory role of ensuring that the ethics laws and regulations of the United States are adhered to throughout the Executive Branch. In carrying out those responsibilities, on April 6, 2018, the acting Director of OGE wrote to the U.S. Environmental Protection Agency's (EPA's) Designated Agency Ethics Official (DAEO) because "reported actions of Scott Pruitt, Administrator of the Environmental Protection Agency (EPA)...raise concern and may constitute a violation of the Standards of Ethical Conduct for Employees of the Executive Branch. ...". Specifically, the OGE letter identified actions involving (1) housing arrangements by the Administrator, (2) expenses for his travel, (3) use of staff and expenditures for security measures, (4) approvals of hiring and salaries for certain employees, (5) use of the Administrator's subordinates' time, and (6) reassignment or demotion of staff who were attempting to ensure that expenses and other actions were in accordance with the law.

In the letter, OGE charged the EPA with needing to "take action to appropriately address any violations." In turn, on that same day—April 6, 2018—the EPA's DAEO referred the OGE letter and request to the EPA OIG for action as the OIG deems appropriate. In short, OGE's concerns and request to EPA are now before the OIG.

We have received multiple requests from multiple members of Congress, as well as other OIG Hotline complaints, regarding these same and related issues. After considering the OGE request, the DAEO's referral to the OIG, your request as well as other congressional requests, and the other Hotline complaints, the OIG has concluded that it will review the matters enumerated above. The matters include issues you have raised to the OIG in your letter of April 3, 2018.

Some of these matters will be reviewed as part of previously announced and still ongoing OIG reviews. Some will be the impetus for new reviews. We will release results of each of these separate reviews as we complete them, and will inform you and your staff when we do so.

For your awareness, the OIG has issued the following project notification memorandums and management alert reports related to reported actions of the current Administrator:

Notification Memorandums:

- *Audit of EPA's Office of Criminal Enforcement, Forensics and Training's Law Enforcement Availability Pay Reporting* (Project No. OA-FY18-0075, issued November 30, 2017)

- *Audit of Administratively Determined Positions* (Project No. OA-FY18-0085, issued January 8, 2018)
- *Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel (third notification)* (Project No. OA-FY17-0382, issued January 10, 2018)

Management Alert Reports:

- *Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410, issued September 27, 2017)
- *Salary Increases for Certain Administratively Determined Positions* (Report No. 18-N-0154, issued April 16, 2018)

Thank you for your continued interest in the work of the OIG. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

A handwritten signature in dark ink, appearing to read "Arthur A. Elkins Jr.", written in a cursive style.

Arthur A. Elkins Jr.

cc: The Honorable Scott Pruitt, Administrator, U.S. Environmental Protection Agency

Congress of the United States
House of Representatives
Washington, D.C. 20515
April 25, 2018

Mr. Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Dear Mr. Kerner:

We request that the Office of Special Counsel conduct an investigation into whether senior officials at the Environmental Protection Agency (EPA) engaged in a pattern of prohibited personnel practices under the leadership of Administrator Scott Pruitt.

At least six EPA officials, including five career employees and one political appointee, reportedly were reassigned, demoted, or requested new jobs in the past year after raising management and spending concerns about Administrator Pruitt. These employees reportedly raised concerns—in some instances directly to Administrator Pruitt—regarding abnormally high spending on office furniture, first class flights, and security demands by Administrator Pruitt, such as a twenty-person security detail and a request for a bullet-proof vehicle.¹

One career employee reportedly was removed after approving an internal report that failed to identify credible direct threats against Administrator Pruitt to justify significant security spending.²

An EPA spokesperson appeared to acknowledge that personnel actions were taken against these employees, describing them as “a group of disgruntled employees who have either been dismissed or reassigned.”³

The reassignment or dismissal of employees who questioned Administrator Pruitt’s wasteful and potentially unlawful expenditures suggests a troubling pattern of retaliation against EPA employees that may be illegal.

¹ *EPA Officials Sidelined After Questioning Scott Pruitt*, New York Times (Apr. 5, 2018) (online at www.nytimes.com/2018/04/05/business/epa-officials-questioned-scott-pruitt.html).

² *EPA Removes Staffer Who Ok’d Report on Pruitt’s Security*, Politico (Apr. 10, 2018) (online at www.politico.com/story/2018/04/10/documents-contradict-epa-claims-threats-984459).

³ *Former Pruitt Aide to Talk to Congressional Investigators This Week*, CNN (Apr. 10, 2018) (online at www.cnn.com/2018/04/10/politics/epa-pruitt-chmielewski/index.html).

Federal law prohibits an agency official from taking or failing to take a personnel action if doing so “violates any law, rule or regulation implementing, or directly concerning, the merit system principles.”⁴ Federal law specifically prohibits retaliation because of an employee “refusing to obey an order that would require the individual to violate a law, rule, or regulation.”⁵

The Whistleblower Protection Act also prohibits personnel actions taken because of any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences “(i) any violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”⁶

We are extremely concerned that Administrator Pruitt and other senior officials at EPA may have engaged in retaliation against employees who raised concerns about his actions. We are also concerned about the long-term impact that this apparent retaliation may have on the willingness of EPA and other Executive Branch employees to report waste, fraud, and abuse.

As you know, the Office of Special Counsel “may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or pattern of prohibited personnel practices) has occurred, exists, or is to be taken.”⁷

⁴ 5 U.S.C. § 2302(b)(12).

⁵ 5 U.S.C. § 2302(b)(9).

⁶ 5 U.S.C. § 2302(b)(8).

⁷ 5 U.S.C. § 1214.

The Honorable Henry Kerner
April 25, 2018
Page 3

We therefore request that you conduct an investigation to determine whether any prohibited personnel practices, or a pattern of prohibited personnel practices, occurred or continue to exist at EPA. If you have any questions, please contact Jon Monger with the Committee on Energy and Commerce Democratic Staff at (202) 225-3641 or Krista Boyd with the Committee on Oversight and Government Reform Democratic Staff at (202) 225-9493.

Sincerely,



Frank Pallone, Jr.
Ranking Member
Committee on Energy
and Commerce



Elijah E. Cummings
Ranking Member
Committee on Oversight
and Government Reform

Cc: Greg Walden, Chairman, Committee on Energy and Commerce
Trey Gowdy, Chairman, Committee on Oversight and Government Reform

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
CHRIS VAN HOLLEN, MARYLAND

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

May 9, 2018

The Honorable John Barrasso
307 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

We write to request that the EPW Committee conduct budget and oversight hearings into Scott Pruitt's administration of the Environmental Protection Agency (EPA). Administrator Pruitt has not testified before our Committee on EPA's FY 2019 budget; in fact, he never testified on its FY 2018 budget. In light of Administrator Pruitt's testimony last Thursday before two House subcommittees and planned appearance in front of a Senate Appropriations subcommittee, we believe that the proper execution of our committee's responsibilities demands that he appear before us as soon as possible.

Administrator Pruitt's testimony last week, viewed in the most charitable light, depicted a chief executive who has failed to exert any oversight over his staff as they have, as he testified, spent exorbitant funds and made impactful personnel decisions without his knowledge or approval. His ready willingness to pass blame on to everyone around him, including career staff and his top political aides, shows that he is either unwilling or unable to lead.

Time and time again, however, his testimony last week was contradicted by EPA documents, public reporting, and even his own prior testimony before Congress. For example, Pruitt provided inconsistent testimony about a number of matters, including:

- **The phone booth's costs:** In response to a question by Congressman Cardenas, Administrator Pruitt said, "I did have a phone call that came in of a sensitive nature and I did not have access to secure communication. I gave direction to my staff to address that and out of that came a \$43,000 expenditure that I did not approve," he said.¹ "If I'd known about it, I would have refused it." EPA approved contracts to prepare his office for this work on July 21, 2017 and for the phone booth itself on August 30, 2017, with the expected completion date listed as October 9, 2017.² On September 26, 2017, the Washington Post published an article about the phone booth saying that the cost would be \$25,000, and on that same day, the EPA approved a

¹ <https://www.c-span.org/video/?444370-1/epa-administrator-pruitt-pressed-concerns-expenses-management&start=7159&transcriptQuery=scif>

² <http://apps.washingtonpost.com/g/documents/national/contract-to-paint-and-patch-epa-administrator-scott-pruitts-communications-room/2820/>; <http://apps.washingtonpost.com/g/documents/national/contract-to-install-concrete-flooring-for-epa-administrator-scott-pruitt/2819/>; https://www.washingtonpost.com/news/energy-environment/wp-content/uploads/sites/43/2017/09/EPAcontract_AcousticalSolutions.pdf?tid=a_mcntx

final contract for it, indicating the work was not complete.³ The Administrator's statements at last week's hearing strain credulity, as they would require Members of Congress to believe that Administrator Pruitt failed to notice major construction in his office, including the installation of a drop ceiling and reinforced concrete floors, and did not read any news accounts about the expenditures.

- **The phone booth's purpose:** On September 26, 2017, EPA spokesperson Liz Bowman told the Washington Post, "What you are referring to is a secured communication area in the administrator's office so secured calls can be received and made.... Federal agencies need to have one of these so that secured communications, not subject to hacking from the outside, can be held. It's called a Sensitive Compartmented Information Facility (SCIF)...."⁴ On December 7, 2017, Congresswoman Diana DeGette asked Administrator Pruitt at a House Energy and Commerce Committee hearing, "OK, so it's a SCIF, what we call a sensitive compartmental information facility, is that right?" In response, Administrator Pruitt said "Yes."⁵ Then, in an apparent about-face, when asked about the phone booth at last week's hearing, Administrator Pruitt told Congressman Lance: "It's not a SCIF, and it was not intended to be."⁶
- **Staff Raises:** At last week's hearings, Administrator Pruitt said that raises for two employees under the Safe Water Drinking Act were granted by staff without his knowledge of the amount. This claim has been contradicted by numerous EPA officials as well as in an email from Sarah Greenwalt, one of the recipient of those raises, who said that her raise had been "discussed with the Administrator."⁷
- **Retaliation Against Staff:** Administrator Pruitt repeatedly asserted that staff who have been reported to have been retaliated against for objecting to his wasteful spending were not retaliated against, and sought to downplay their roles at the agency. For example, during the House Appropriations subcommittee hearing, in response to Ranking Member McCollum's comments on this issue, he stated: "I would say to you unequivocally, I know of no instance, not aware of any instance, that any employment action [has been] taken against someone for any advice or counsel given with respect to spending. I am not aware of any instance of that." He repeated a similar response later in the same line of questioning. Further, when Ranking Member McCollum asked whether Kevin Chmielewski, Mr. Pruitt's former Deputy Chief of Staff, is "still working for the EPA", Pruitt responded: "It's my understanding he is not. He resigned I think late last year." Mr. Chmielewski has told congressional investigators that he was placed on administrative leave in February, and that his status remained uncertain through April.⁸

³ https://www.washingtonpost.com/news/energy-environment/wp/2017/09/26/epa-spending-almost-25000-to-install-a-secure-phone-booth-for-scott-pruitt/?noredirect=on&utm_term=.7a512991d70b;
<http://apps.washingtonpost.com/g/documents/national/invoice-for-installing-a-drop-ceiling-in-epa-administrator-scott-pruitts-communications-room/2821/>

⁴ https://www.washingtonpost.com/news/energy-environment/wp/2017/09/26/epa-spending-almost-25000-to-install-a-secure-phone-booth-for-scott-pruitt/?noredirect=on&utm_term=.3decce15747f

⁵ <https://docs.house.gov/meetings/IF/IF18/20171207/106701/HHRG-115-IF18-Transcript-20171207.pdf>

⁶ <https://www.c-span.org/video/?c4726639/congressman-lance-questions-epa-administrator-scott-pruitt>

⁷ <https://www.epw.senate.gov/public/index.cfm/2018/4/carper-whitehouse-call-on-pruitt-to-immediately-clarify-role-in-exorbitant-pay-raises-for-favored-staff>

⁸ <https://www.documentcloud.org/documents/4436623-4-12-2018-Letter-to-Pruitt.html>

- **Morocco:** Administrator Pruitt said that he was invited to Morocco by that country's ambassador in order to "negotiate the environmental chapter" of a free trade agreement being worked on between the two countries.⁹ There is no official record of the Administrator ever meeting with the Office of the United States Trade Representative (USTR) or the Department of Commerce before he departed.¹⁰ Nor is there any record of the USTR delegating to Administrator Pruitt any negotiating authority to participate in trade negotiations, or of Mr. Pruitt ever participating in trade negotiations during that trip. Moreover, it has now come to light that Administrator Pruitt's trip to Morocco was largely organized by a lobbyist, who has since been hired by Morocco as a foreign agent on a \$40,000 per month retainer.
- **Security Threats:** Administrator Pruitt repeatedly told lawmakers that EPA Inspector General Arthur Elkins wrote a memo outlining the alleged "unprecedented" security threats that existed against him. For example, in response to Congresswoman McCollum's statement she wanted to know about whether "the Inspector General himself has noted threats", Pruitt responded "well that is what I was just reading for you." The EPA Inspector General's Office has confirmed that the memo to which Pruitt referred was not written by Elkins. Pruitt also did not acknowledge that EPA's Office of Homeland Security reviewed the memo on which his claim was based and found that it did not identify any specific, credible and direct threats against Pruitt.¹¹ This judgment was also supported by two memos from the Secret Service stating that it was unaware of any threats against Pruitt.
- **Staff Attendance:** Administrator Pruitt stated at the hearings that he did not know if Samantha Dravis, one of his closest aides who served as his Associate Administrator for the Office of Policy at EPA and previously worked with him at the Republican Attorney Generals Association, came to work for much if not all of the months of November 2017 to January 2018.¹² Specifically, when questioned by Congresswoman Schakowsky during the House Energy & Commerce hearing about how much Dravis was paid for the 3 months she did not work, Mr. Pruitt responded: "I'm not aware that she did or did not appear for work."¹³

In addition to the above examples of inconsistent testimony, troubling new information has come to light about Administrator Pruitt's international travel. We have recently learned that like his trip to Morocco, Administrator Pruitt's planned trips to Australia and Israel were also largely driven by business interests. A consultant and former lobbyist for foreign governments played a central role in planning the Australia visit, while the planned trip to Israel appears to have grown out of Administrator Pruitt's interest in an Israeli water company that had been recommended to him by billionaire Sheldon Adelson, one of the largest contributors to a political group linked to Pruitt. This pattern of allowing private business interests to dictate the Administrator's international travel warrants further inquiry by this Committee.

⁹ <https://www.c-span.org/video/?444370-1/epa-administrator-pruitt-pressed-concerns-expenses-management&start=13046>

¹⁰ <https://abcnews.go.com/Politics/scott-pruitts-moroccan-calendar-draws-blanks/story?id=54556574>

¹¹ <https://www.nytimes.com/interactive/2018/04/10/climate/document-Pruitt-EPA-Security-Spending.html>

¹² <https://www.nytimes.com/interactive/2018/04/05/climate/document-Samantha-Dravis-Letter.html>

¹³ <https://www.c-span.org/video/?444370-1/epa-administrator-pruitt-pressed-concerns-expenses-management&start=10586&transcriptQuery=dravis>

While we may disagree on the policy choices made by Administrator Pruitt, we hope we can agree that cabinet officials of any party owe Congress clear and truthful answers to questions and should be held to the highest ethical standards as Administrator Pruitt himself acknowledged last week. We should also be able to agree that claims of accountability are meaningless unless they can be credibly backed up by meaningful oversight and investigations of misconduct. Your Republican colleagues on and off this Committee, as well as those in the House, have already called upon Administrator Pruitt to testify. We hope you share this view, and look forward to working with you to ensure that the mismanagement currently plaguing EPA is rectified promptly and effectively.

Sincerely,



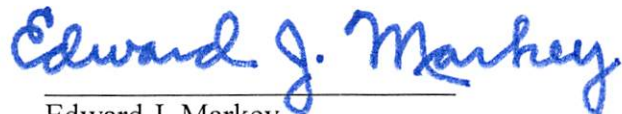
Thomas R. Carper
Ranking Member



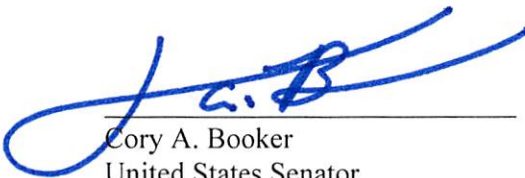
Sheldon Whitehouse
United States Senator



Jeffrey A. Merkley
United States Senator



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator



Kirsten Gillibrand
United States Senator

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

June 4, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Gowdy:

We are writing to request that you issue a subpoena to obtain documents that are currently being withheld by the Environmental Protection Agency (EPA) relating to Administrator Scott Pruitt's multiple abuses of authority in using agency staff for his own personal purposes.

On April 12, 2018, we sent a letter to Administrator Pruitt explaining that Kevin Chmielewski, who had served as Deputy Chief of Staff for Operations at EPA, had blown the whistle on these abuses. For example, we wrote:

Mr. Chmielewski said that you had EPA's Director of Scheduling and Advance Millan Hupp act as your personal real estate representative, spending weeks improperly using federal government resources and time to contact rental and seller's agents, and touring numerous properties in which you might wish to reside.¹

To investigate these allegations, we requested all "documents and communications referring or relating to Millan Hupp's assistance with the Administrator's rental or purchase of real estate, including but not limited to contacts with any rental or seller's agents, travel to and from rental properties, and documents showing the time spent on this project."

EPA issued a statement condemning Mr. Chmielewski as being part of "a group of disgruntled employees who have either been dismissed or reassigned."²

¹ Letter from Senator Thomas R. Carper, Senator Sheldon Whitehouse, Representative Elijah E. Cummings, Representative Gerald E. Connolly, and Representative Donald S. Beyer Jr., to Administrator Scott Pruitt, Environmental Protection Agency (Apr. 12, 2018) (online at <https://edit-democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/4.12.2018%20Letter%20to%20Pruitt.pdf>).

² *Former Pruitt Aide to Talk to Congressional Investigators This Week*, CNN (Apr. 10, 2018) (online at www.cnn.com/2018/04/10/politics/epa-pruitt-chmielewski/index.html).

On May 18, 2018, Republican and Democratic Committee staff conducted a transcribed interview with Ms. Hupp, the Director of Scheduling and Advance for Administrator Pruitt. During her interview with Committee staff, Ms. Hupp not only confirmed the previous allegations against Administrator Pruitt, but revealed significant new details about the extent to which he utilized her for personal tasks, including using his credit card to book personal flights and even attempting to obtain an "old mattress" from the Managing Director of the Trump Hotel in Washington, D.C.

If Ms. Hupp's statements to the Committee are accurate, Administrator Pruitt crossed a very clear line and must be held accountable. Federal ethics laws prohibit Administrator Pruitt from using his official position for personal gain and from requesting and accepting services from a subordinate employee that are not part of that employee's official duties. Your previous document requests to the EPA have not included a request for information on this topic. We ask that you issue a subpoena for the documents from our April 12, 2018 request that EPA is withholding or allow Committee Members to debate and vote on a subpoena motion at our next business meeting.

Ms. Hupp's Interview Statements to the Committee

During her interview, Ms. Hupp stated that Administrator Pruitt asked her to help him find a new residence during the summer of 2017, but that he did not pay her for these services:

- Q: You said in the last hour that you helped Mr. Pruitt find residence number two. Is that correct?
- A: That's correct.
- Q: What did you do to help find him this residence?
- A: I helped him search for available properties.
- Q: Would you email leasing companies?
- A: I sent a couple emails to realtors, yes.
- Q: Do you remember when you did this?
- A: It was sometime over the summer, if you're referring to the timeframe.
- Q: Did you do it during work hours?
- A: I do recall sending a couple emails over work hours, yes.
- Q: Did you use your work email address?
- A: I did not.
- Q: Did you use your work phone?
- A: I did not.
- Q: Did you use your work computer?
- A: To send emails?
- Q: Yes.
- A: I did not.
- Q: How many hours or days were spent looking for housing for the Administrator?
- A: I do not know.
- Q: Was it just several hours once? Was it several hours several times?
- A: It was over the course of a couple months.

- Q: How many realtors did you work with?
A: I recall working with two realtors.
Q: Did you visit any properties on behalf of the Administrator?
A: I did.
Q: Did you do this during work hours?
A: There were a couple properties that I left during work to go visit, yes.
Q: Did you take leave when you left?
A: I did not.
Q: Why not?
A: They were generally during lunch hour. I never took lunch, so I felt that leaving for an hour was appropriate.
Q: So you would go tour the property and return to work?
A: I would.
Q: Did the Administrator ask you to do this?
A: To do what specifically?
Q: To look for housing for him.
A: He asked for my help in seeking housing, yes.
Q: Do you remember what he said?
A: I—no, not specifically.
Q: Did he verbally ask you to do this? Did he send an email?
A: He verbally asked me.
Q: Do you remember when he verbally asked you?
A: It was sometime over the summer.
Q: When he asked you to do this, did he specify when you should be helping him look for housing? Did he specify during work hours, outside of work hours?
A: He did not.
Q: Did the Administrator pay you for helping him look for housing?
A: He did not.

Ms. Hupp informed Committee staff that she looked for long-term rental housing for Administrator Pruitt for several hours per week over the course of several months, personally visiting more than ten locations:

- Q: All in all, about how many hours do you think you spent assisting him trying to find a new place to live?
A: I have no idea.
Q: Is it fair to say it was more than 10 hours?
A: Yes.
Q: Is it fair to say it was more than 20?
A: It was over the span of a couple months.
Q: And was it a couple hours a week or was it more than that?
A: It was more than that.
Q: So if it was—now we're going to test my math again—was it 5 hours a week maybe?
A: I don't know. I would be speculating if I gave you a number.

- Q: It was more than a couple hours a week and it was over the span of more than 1 month?
- A: Yes.
- Q: And in that, did you search for rental opportunities, is that what you did, on the internet? I'm sorry, that was my internet sign.
- A: I did some searching, yes.
- Q: Where did you look?
- A: I don't remember.
- Q: Were you looking on temporary rental opportunities, like craigslist kind of options, or just with particular buildings?
- A: I was looking at rental opportunities. They weren't temporary. They were—I was looking at rental opportunities.
- Q: And when you found them, you would then communicate with whoever was the renter, the landlord?
- A: Yes.
- Q: And then sometimes you would go visit the places?
- A: Yes.
- Q: Do you recall how many places you maybe visited?
- A: I do not.
- Q: And was it five?
- A: It was more than five.
- Q: More than five. Ten?
- A: I don't know. Probably more than ten.
- Q: Twenty?
- A: I don't know.
- Q: How come it took so long?
- A: I don't know.
- Q: When you found rental options, did you find a good option before the one that the Administrator picked?
- A: What do you mean?
- Q: Well, so when you found options, did you then discuss them with the Administrator?
- A: Yes.
- Q: Did you guys consider renting another option before the one that he ended up picking?
- A: I don't remember if he and his wife considered—seriously considered other options before this one.

Ms. Hupp explained to Committee staff that after months of searching, Administrator Pruitt and his wife selected an apartment at 13th and U Streets in Washington, D.C., only to leave the apartment shortly thereafter:

- Q: What was the concern with the apartment at 13th and U?
- A: My understanding was simply that they were not comfortable in the area. That's the extent of my knowledge as to why they left.

- Q: And how was that communicated to you?
- A: General discussions.
- Q: With who?
- A: With the Administrator.
- Q: Did he ask you to help him to get out of that lease?
- A: He did not.
- Q: Did you help him get the lease? What was your involvement in that?
- A: Which lease?
- Q: This is the 13th and U apartment.
- A: That was during the timeframe when I was helping him to find an apartment, yes.
- Q: So what did you do for that particular apartment?
- A: As I recall, I connected him with the realtor that helped him to find that location.
- Q: Did you tour that location?
- A: I do not recall touring that location.
- Q: And then were you—were you involved in the lease process, or did he do that with a realtor on his own?
- A: The Pruitts did that with the realtor.

Ms. Hupp informed Committee staff that she also helped Administrator Pruitt with other personal tasks, including contacting the Managing Director of the Trump International Hotel in Washington, D.C. to obtain an old mattress:

- Q: And the email is dated September 14th, 2017, it's a Thursday at 12:01 p.m., from you to him. You say: "I'm following up on a voicemail I left you just a bit ago. I work for EPA Administrator Pruitt and was hopeful you could give me a quick call when you have a couple minutes."
- It appears he responded that evening at 11:04 p.m. And the subject line of your email was: "Inquiry on behalf of EPA Administrator Scott Pruitt." And it appears that he's the managing director for—from his subject line—from his, I'm sorry, signature line—Trump International Hotel, Washington, D.C., which is the post office.
- Q: Do you recall why you would have reached out to him?
- A: I do not recall sending this email, but I do recall there being discussions about the possibility of securing an old mattress from the Trump Hotel.
- Q: Discussions with who?
- A: With the Administrator.
- Q: And can you describe the content of those discussions?
- A: I don't recall specifically other than he had expressed interest in securing a mattress.
- Q: Did he say what the mattress was for?
- A: It was around the same time that he was moving.
- Q: Did he indicate that he wanted to use the mattress to sleep on, I assume?
- A: I don't recall specifically.

- Q: Okay. So can you just break down for us how that would have occurred, because it sounds like an odd conversation. Maybe you could just explain for us what it sounded like.
- A: As I remember, the Administrator had spoken with someone at the Trump Hotel who had indicated that there could be a mattress that he could purchase, an old mattress that he could purchase. But that's the extent of the conversation that I can—that I can remember.
- Q: Do you know why he'd want to purchase an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you know who he spoke with at the Trump Hotel?
- A: I do not.
- Q: Do you remember what came of that conversation?
- A: I do not.
- Q: Do you know whether he ever ended up purchasing an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you remember whether you ever connected with somebody from the Trump Hotel to have that conversation about it?
- A: I do not remember.
- Q: Okay. So you don't recall if you ever actually connected or there was a mattress or there wasn't a mattress or any of the details around that?
- A: I do not recall ever connecting with someone on this topic, and I do not recall whatever came of the inquiry into the mattress.
- Q: Did you end up having to find Mr. Pruitt a mattress from some other location?
- A: I did not.
- Q: Were you involved in assisting him with furnishing his residence, any of his residences?
- A: I was not.
- Q: Except for this one inquiry about finding an old mattress.
- A: Yes. This is the only one that I can recall.
- Q: Which I assume was not for use at the EPA?
- A: Not to my knowledge.

Ms. Hupp informed Committee staff during the interview that she had Administrator Pruitt's personal credit card and booked personal travel for him:

- Q: Are there other things that you do or have done for him personally?
- A: I have helped him book travel before.
- Q: Personal travel?
- A: Yes.
- Q: To where?
- A: I assisted him in booking travel to his trip to the Rose Bowl.
- Q: And why did you end up doing that?
- A: He requested help.
- Q: And did you do that during work time, during personal time?

- A: It was during personal time.
- Q: So afterhours?
- A: I was at home on vacation for Christmas.
- Q: And did you use your sort of work email or you used personal?
- A: I used my work email to share details with the security team.
- Q: But you were home, were you using a personal computer to search for flights, I take it?
- A: I was. And he actually sent me specific flight information. I did not do the searching for him.
- Q: So he needed your help making the reservation?
- A: Yes.
- Q: I don't really understand. If he had searched for the flight, why does he need help making the reservation?
- A: I don't know.
- Q: Is it like an online system or—
- A: I don't know. He just sent me the flight details and asked me to book for him.
- Q: Okay. Did you call or do it online?
- A: I did it online.
- Q: And it was his personal travel, so did he give you his personal credit card?
- A: He did.
- Q: And you used his personal credit card to do that, I take it?
- A: As necessary, yes.
- Q: Oh, you have his personal credit card already?
- A: Yes, I do have it.
- Q: And you used it to purchase things for him personally, I take it?
- A: I have used it to purchase flights for him, yes.
- Q: Personal flights?
- A: Yes.

Ms. Hupp informed Committee staff that she did these personal tasks for Administrator Pruitt because of her personal friendship with him:

- Q: Would you consider Administrator Pruitt a family friend?
- A: I would consider him a friend of mine, yes.
- Q: When did that relationship develop?
- A: What do you mean?
- Q: So it sounds like you started working for him for the PAC. Was he your supervisor at the PAC?
- A: He was my principal.
- Q: And how did you develop—how, when did you develop a personal friendship with him, as opposed to professional?
- A: Well, we worked very closely together and spent a lot of time together. I traveled with him, so naturally a friendship developed.
- Q: And as personal friends, what is that—I'm just trying to get a sense of what that means to you. Do you guys have social dinners, you meet up socially?

- A: We have in the past, yes.
Q: With his family or just with him?
A: Usually just with him.
Q: But not related to work?
A: That's correct.

Federal Ethics Laws and Regulations

Federal ethics rules prohibit federal employees from using public office for private gain.³ The Director of the Office of Government Ethics, David Apol, sent a letter to EPA's Designated Agency Ethics Official on April 6, 2018, that raised concerns that Administrator Pruitt may have violated those laws.⁴ Mr. Apol wrote:

Nevertheless, reports of the Administrator making frequent official trips to his home state at Government expense to offset the expense of returning home for personal or political reasons do raise concerns about whether the Administrator is using his public office for personal gain in violation of ethics rules. Further, reports that the Administrator's subordinates may have assisted him in finding housing also raise concerns about whether the Administrator misused his position.⁵

Federal law also prohibits supervisors from soliciting gifts from their employees and from accepting gifts from subordinates that are not traditionally given or regularly exchanged for special occasions:

- (a) An employee may not—
 - (1) solicit a contribution from another employee for a gift to an official superior;
 - (2) make a donation as a gift or give a gift to an official superior; or
 - (3) accept a gift from an employee receiving less pay than himself.
- (b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.⁶

³ 5 C.F.R. § 2635.702.

⁴ Letter from David J. Apol, Acting Director and General Counsel, Office of Government Ethics, to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official, Environmental Protection Agency (Apr. 6, 2018) (online at <https://oge.app.box.com/v/LettertoEPADAE0>).

⁵ *Id.*

⁶ 5 U.S.C. § 7351.

In addition, the regulations implementing this statute state:

- (b) Except as provided in this subpart, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:
 - (1) The two employees are not in a subordinate-official superior relationship; and
 - (2) there is a personal relationship between the two employees that would justify the gift.⁷

The implementing regulations also have exceptions, but they do not appear to apply in this case:

- (a) General exceptions. On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - (1) Items, other than cash, with an aggregate market value of \$10 or less per occasion;
 - (2) items such as food and refreshments to be shared in the office among several employees;
 - (3) personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
 - (4) items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and
 - (5) leave transferred under subpart I of part 630 of this title to an employee who is not an immediate supervisor, unless obtained in violation of § 630.912 of this title.⁸

The regulations define the term gift as follows:

- (b) Gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement

⁷ 5 C.F.R. § 2635.302(b).

⁸ 5 C.F.R. § 2635.304.

after the expense has been incurred.⁹

The regulations also provide that employees must use official time to perform official duties:

- (a) Use of an employee's own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties. ...
- (b) Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.¹⁰

Request for Subpoena

For the reasons set forth above, we request that you issue a subpoena by June 18, 2018, compelling Administrator Pruitt to produce all of the documents requested in the letter sent to him on April 12, 2018, as well as the following documents relating to Ms. Hupp's interview statements to Committee staff:

- (1) all documents and communications relating to Ms. Hupp's efforts to find Administrator Pruitt a mattress;
- (2) all documents and communications relating to Ms. Hupp's efforts to secure personal travel for Administrator Pruitt;
- (3) all documents and communications relating to EPA employees performing non-work related or personal tasks for Administrator Pruitt, including any discussion of the appropriateness or legality of those actions; and
- (4) any agency policies, communications, or ethical guidance regarding EPA employees performing non-work related or personal tasks for their EPA supervisors, including the Administrator.

If you decide not to issue this subpoena, then we ask that you bring this matter before the Committee at the next regularly scheduled a business meeting so all Committee Members can have the opportunity to debate and vote on a motion to issue the subpoena.

⁹ 5 C.F.R. § 2635.203.

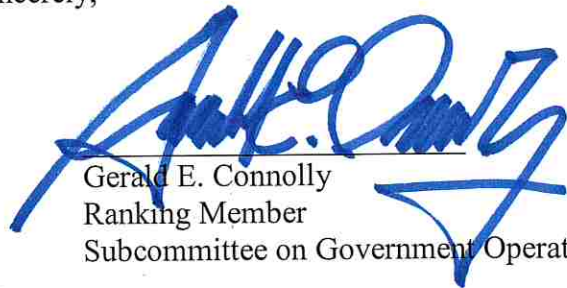
¹⁰ 5 C.F.R. § 2635.705.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations

cc: The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

June 4, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Gowdy:

We are writing to request that you issue a subpoena to obtain documents that are currently being withheld by the Environmental Protection Agency (EPA) relating to Administrator Scott Pruitt's multiple abuses of authority in using agency staff for his own personal purposes.

On April 12, 2018, we sent a letter to Administrator Pruitt explaining that Kevin Chmielewski, who had served as Deputy Chief of Staff for Operations at EPA, had blown the whistle on these abuses. For example, we wrote:

Mr. Chmielewski said that you had EPA's Director of Scheduling and Advance Millan Hupp act as your personal real estate representative, spending weeks improperly using federal government resources and time to contact rental and seller's agents, and touring numerous properties in which you might wish to reside.¹

To investigate these allegations, we requested all "documents and communications referring or relating to Millan Hupp's assistance with the Administrator's rental or purchase of real estate, including but not limited to contacts with any rental or seller's agents, travel to and from rental properties, and documents showing the time spent on this project."

EPA issued a statement condemning Mr. Chmielewski as being part of "a group of disgruntled employees who have either been dismissed or reassigned."²

¹ Letter from Senator Thomas R. Carper, Senator Sheldon Whitehouse, Representative Elijah E. Cummings, Representative Gerald E. Connolly, and Representative Donald S. Beyer Jr., to Administrator Scott Pruitt, Environmental Protection Agency (Apr. 12, 2018) (online at <https://edit-democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/4.12.2018%20Letter%20to%20Pruitt.pdf>).

² *Former Pruitt Aide to Talk to Congressional Investigators This Week*, CNN (Apr. 10, 2018) (online at www.cnn.com/2018/04/10/politics/epa-pruitt-chmielewski/index.html).

On May 18, 2018, Republican and Democratic Committee staff conducted a transcribed interview with Ms. Hupp, the Director of Scheduling and Advance for Administrator Pruitt. During her interview with Committee staff, Ms. Hupp not only confirmed the previous allegations against Administrator Pruitt, but revealed significant new details about the extent to which he utilized her for personal tasks, including using his credit card to book personal flights and even attempting to obtain an "old mattress" from the Managing Director of the Trump Hotel in Washington, D.C.

If Ms. Hupp's statements to the Committee are accurate, Administrator Pruitt crossed a very clear line and must be held accountable. Federal ethics laws prohibit Administrator Pruitt from using his official position for personal gain and from requesting and accepting services from a subordinate employee that are not part of that employee's official duties. Your previous document requests to the EPA have not included a request for information on this topic. We ask that you issue a subpoena for the documents from our April 12, 2018 request that EPA is withholding or allow Committee Members to debate and vote on a subpoena motion at our next business meeting.

Ms. Hupp's Interview Statements to the Committee

During her interview, Ms. Hupp stated that Administrator Pruitt asked her to help him find a new residence during the summer of 2017, but that he did not pay her for these services:

- Q: You said in the last hour that you helped Mr. Pruitt find residence number two. Is that correct?
- A: That's correct.
- Q: What did you do to help find him this residence?
- A: I helped him search for available properties.
- Q: Would you email leasing companies?
- A: I sent a couple emails to realtors, yes.
- Q: Do you remember when you did this?
- A: It was sometime over the summer, if you're referring to the timeframe.
- Q: Did you do it during work hours?
- A: I do recall sending a couple emails over work hours, yes.
- Q: Did you use your work email address?
- A: I did not.
- Q: Did you use your work phone?
- A: I did not.
- Q: Did you use your work computer?
- A: To send emails?
- Q: Yes.
- A: I did not.
- Q: How many hours or days were spent looking for housing for the Administrator?
- A: I do not know.
- Q: Was it just several hours once? Was it several hours several times?
- A: It was over the course of a couple months.

- Q: How many realtors did you work with?
A: I recall working with two realtors.
Q: Did you visit any properties on behalf of the Administrator?
A: I did.
Q: Did you do this during work hours?
A: There were a couple properties that I left during work to go visit, yes.
Q: Did you take leave when you left?
A: I did not.
Q: Why not?
A: They were generally during lunch hour. I never took lunch, so I felt that leaving for an hour was appropriate.
Q: So you would go tour the property and return to work?
A: I would.
Q: Did the Administrator ask you to do this?
A: To do what specifically?
Q: To look for housing for him.
A: He asked for my help in seeking housing, yes.
Q: Do you remember what he said?
A: I—no, not specifically.
Q: Did he verbally ask you to do this? Did he send an email?
A: He verbally asked me.
Q: Do you remember when he verbally asked you?
A: It was sometime over the summer.
Q: When he asked you to do this, did he specify when you should be helping him look for housing? Did he specify during work hours, outside of work hours?
A: He did not.
Q: Did the Administrator pay you for helping him look for housing?
A: He did not.

Ms. Hupp informed Committee staff that she looked for long-term rental housing for Administrator Pruitt for several hours per week over the course of several months, personally visiting more than ten locations:

- Q: All in all, about how many hours do you think you spent assisting him trying to find a new place to live?
A: I have no idea.
Q: Is it fair to say it was more than 10 hours?
A: Yes.
Q: Is it fair to say it was more than 20?
A: It was over the span of a couple months.
Q: And was it a couple hours a week or was it more than that?
A: It was more than that.
Q: So if it was—now we're going to test my math again—was it 5 hours a week maybe?
A: I don't know. I would be speculating if I gave you a number.

- Q: It was more than a couple hours a week and it was over the span of more than 1 month?
- A: Yes.
- Q: And in that, did you search for rental opportunities, is that what you did, on the internet? I'm sorry, that was my internet sign.
- A: I did some searching, yes.
- Q: Where did you look?
- A: I don't remember.
- Q: Were you looking on temporary rental opportunities, like craigslist kind of options, or just with particular buildings?
- A: I was looking at rental opportunities. They weren't temporary. They were—I was looking at rental opportunities.
- Q: And when you found them, you would then communicate with whoever was the renter, the landlord?
- A: Yes.
- Q: And then sometimes you would go visit the places?
- A: Yes.
- Q: Do you recall how many places you maybe visited?
- A: I do not.
- Q: And was it five?
- A: It was more than five.
- Q: More than five. Ten?
- A: I don't know. Probably more than ten.
- Q: Twenty?
- A: I don't know.
- Q: How come it took so long?
- A: I don't know.
- Q: When you found rental options, did you find a good option before the one that the Administrator picked?
- A: What do you mean?
- Q: Well, so when you found options, did you then discuss them with the Administrator?
- A: Yes.
- Q: Did you guys consider renting another option before the one that he ended up picking?
- A: I don't remember if he and his wife considered—seriously considered other options before this one.

Ms. Hupp explained to Committee staff that after months of searching, Administrator Pruitt and his wife selected an apartment at 13th and U Streets in Washington, D.C., only to leave the apartment shortly thereafter:

- Q: What was the concern with the apartment at 13th and U?
- A: My understanding was simply that they were not comfortable in the area. That's the extent of my knowledge as to why they left.

- Q: And how was that communicated to you?
- A: General discussions.
- Q: With who?
- A: With the Administrator.
- Q: Did he ask you to help him to get out of that lease?
- A: He did not.
- Q: Did you help him get the lease? What was your involvement in that?
- A: Which lease?
- Q: This is the 13th and U apartment.
- A: That was during the timeframe when I was helping him to find an apartment, yes.
- Q: So what did you do for that particular apartment?
- A: As I recall, I connected him with the realtor that helped him to find that location.
- Q: Did you tour that location?
- A: I do not recall touring that location.
- Q: And then were you—were you involved in the lease process, or did he do that with a realtor on his own?
- A: The Pruitts did that with the realtor.

Ms. Hupp informed Committee staff that she also helped Administrator Pruitt with other personal tasks, including contacting the Managing Director of the Trump International Hotel in Washington, D.C. to obtain an old mattress:

- Q: And the email is dated September 14th, 2017, it's a Thursday at 12:01 p.m., from you to him. You say: "I'm following up on a voicemail I left you just a bit ago. I work for EPA Administrator Pruitt and was hopeful you could give me a quick call when you have a couple minutes."
- It appears he responded that evening at 11:04 p.m. And the subject line of your email was: "Inquiry on behalf of EPA Administrator Scott Pruitt." And it appears that he's the managing director for—from his subject line—from his, I'm sorry, signature line—Trump International Hotel, Washington, D.C., which is the post office.
- Q: Do you recall why you would have reached out to him?
- A: I do not recall sending this email, but I do recall there being discussions about the possibility of securing an old mattress from the Trump Hotel.
- Q: Discussions with who?
- A: With the Administrator.
- Q: And can you describe the content of those discussions?
- A: I don't recall specifically other than he had expressed interest in securing a mattress.
- Q: Did he say what the mattress was for?
- A: It was around the same time that he was moving.
- Q: Did he indicate that he wanted to use the mattress to sleep on, I assume?
- A: I don't recall specifically.

- Q: Okay. So can you just break down for us how that would have occurred, because it sounds like an odd conversation. Maybe you could just explain for us what it sounded like.
- A: As I remember, the Administrator had spoken with someone at the Trump Hotel who had indicated that there could be a mattress that he could purchase, an old mattress that he could purchase. But that's the extent of the conversation that I can—that I can remember.
- Q: Do you know why he'd want to purchase an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you know who he spoke with at the Trump Hotel?
- A: I do not.
- Q: Do you remember what came of that conversation?
- A: I do not.
- Q: Do you know whether he ever ended up purchasing an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you remember whether you ever connected with somebody from the Trump Hotel to have that conversation about it?
- A: I do not remember.
- Q: Okay. So you don't recall if you ever actually connected or there was a mattress or there wasn't a mattress or any of the details around that?
- A: I do not recall ever connecting with someone on this topic, and I do not recall whatever came of the inquiry into the mattress.
- Q: Did you end up having to find Mr. Pruitt a mattress from some other location?
- A: I did not.
- Q: Were you involved in assisting him with furnishing his residence, any of his residences?
- A: I was not.
- Q: Except for this one inquiry about finding an old mattress.
- A: Yes. This is the only one that I can recall.
- Q: Which I assume was not for use at the EPA?
- A: Not to my knowledge.

Ms. Hupp informed Committee staff during the interview that she had Administrator Pruitt's personal credit card and booked personal travel for him:

- Q: Are there other things that you do or have done for him personally?
- A: I have helped him book travel before.
- Q: Personal travel?
- A: Yes.
- Q: To where?
- A: I assisted him in booking travel to his trip to the Rose Bowl.
- Q: And why did you end up doing that?
- A: He requested help.
- Q: And did you do that during work time, during personal time?

- A: It was during personal time.
- Q: So afterhours?
- A: I was at home on vacation for Christmas.
- Q: And did you use your sort of work email or you used personal?
- A: I used my work email to share details with the security team.
- Q: But you were home, were you using a personal computer to search for flights, I take it?
- A: I was. And he actually sent me specific flight information. I did not do the searching for him.
- Q: So he needed your help making the reservation?
- A: Yes.
- Q: I don't really understand. If he had searched for the flight, why does he need help making the reservation?
- A: I don't know.
- Q: Is it like an online system or—
- A: I don't know. He just sent me the flight details and asked me to book for him.
- Q: Okay. Did you call or do it online?
- A: I did it online.
- Q: And it was his personal travel, so did he give you his personal credit card?
- A: He did.
- Q: And you used his personal credit card to do that, I take it?
- A: As necessary, yes.
- Q: Oh, you have his personal credit card already?
- A: Yes, I do have it.
- Q: And you used it to purchase things for him personally, I take it?
- A: I have used it to purchase flights for him, yes.
- Q: Personal flights?
- A: Yes.

Ms. Hupp informed Committee staff that she did these personal tasks for Administrator Pruitt because of her personal friendship with him:

- Q: Would you consider Administrator Pruitt a family friend?
- A: I would consider him a friend of mine, yes.
- Q: When did that relationship develop?
- A: What do you mean?
- Q: So it sounds like you started working for him for the PAC. Was he your supervisor at the PAC?
- A: He was my principal.
- Q: And how did you develop—how, when did you develop a personal friendship with him, as opposed to professional?
- A: Well, we worked very closely together and spent a lot of time together. I traveled with him, so naturally a friendship developed.
- Q: And as personal friends, what is that—I'm just trying to get a sense of what that means to you. Do you guys have social dinners, you meet up socially?

- A: We have in the past, yes.
Q: With his family or just with him?
A: Usually just with him.
Q: But not related to work?
A: That's correct.

Federal Ethics Laws and Regulations

Federal ethics rules prohibit federal employees from using public office for private gain.³ The Director of the Office of Government Ethics, David Apol, sent a letter to EPA's Designated Agency Ethics Official on April 6, 2018, that raised concerns that Administrator Pruitt may have violated those laws.⁴ Mr. Apol wrote:

Nevertheless, reports of the Administrator making frequent official trips to his home state at Government expense to offset the expense of returning home for personal or political reasons do raise concerns about whether the Administrator is using his public office for personal gain in violation of ethics rules. Further, reports that the Administrator's subordinates may have assisted him in finding housing also raise concerns about whether the Administrator misused his position.⁵

Federal law also prohibits supervisors from soliciting gifts from their employees and from accepting gifts from subordinates that are not traditionally given or regularly exchanged for special occasions:

- (a) An employee may not—
 - (1) solicit a contribution from another employee for a gift to an official superior;
 - (2) make a donation as a gift or give a gift to an official superior; or
 - (3) accept a gift from an employee receiving less pay than himself.
- (b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.⁶

³ 5 C.F.R. § 2635.702.

⁴ Letter from David J. Apol, Acting Director and General Counsel, Office of Government Ethics, to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official, Environmental Protection Agency (Apr. 6, 2018) (online at <https://oge.app.box.com/v/LettertoEPADAE0>).

⁵ *Id.*

⁶ 5 U.S.C. § 7351.

In addition, the regulations implementing this statute state:

- (b) Except as provided in this subpart, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:
 - (1) The two employees are not in a subordinate-official superior relationship; and
 - (2) there is a personal relationship between the two employees that would justify the gift.⁷

The implementing regulations also have exceptions, but they do not appear to apply in this case:

- (a) General exceptions. On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - (1) Items, other than cash, with an aggregate market value of \$10 or less per occasion;
 - (2) items such as food and refreshments to be shared in the office among several employees;
 - (3) personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
 - (4) items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and
 - (5) leave transferred under subpart I of part 630 of this title to an employee who is not an immediate supervisor, unless obtained in violation of § 630.912 of this title.⁸

The regulations define the term gift as follows:

- (b) Gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement

⁷ 5 C.F.R. § 2635.302(b).

⁸ 5 C.F.R. § 2635.304.

after the expense has been incurred.⁹

The regulations also provide that employees must use official time to perform official duties:

- (a) Use of an employee's own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties. ...
- (b) Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.¹⁰

Request for Subpoena

For the reasons set forth above, we request that you issue a subpoena by June 18, 2018, compelling Administrator Pruitt to produce all of the documents requested in the letter sent to him on April 12, 2018, as well as the following documents relating to Ms. Hupp's interview statements to Committee staff:

- (1) all documents and communications relating to Ms. Hupp's efforts to find Administrator Pruitt a mattress;
- (2) all documents and communications relating to Ms. Hupp's efforts to secure personal travel for Administrator Pruitt;
- (3) all documents and communications relating to EPA employees performing non-work related or personal tasks for Administrator Pruitt, including any discussion of the appropriateness or legality of those actions; and
- (4) any agency policies, communications, or ethical guidance regarding EPA employees performing non-work related or personal tasks for their EPA supervisors, including the Administrator.

If you decide not to issue this subpoena, then we ask that you bring this matter before the Committee at the next regularly scheduled a business meeting so all Committee Members can have the opportunity to debate and vote on a motion to issue the subpoena.

⁹ 5 C.F.R. § 2635.203.

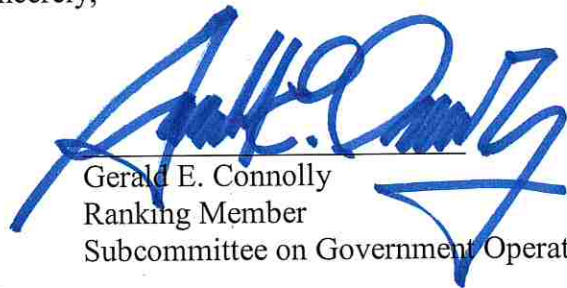
¹⁰ 5 C.F.R. § 2635.705.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations

cc: The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations

United States Senate

WASHINGTON, DC 20510

June 7, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
1301 Constitution Ave., NW, Rm 3102
Washington, DC 20460

Dear Mr. Elkins:

We appreciate the work that you are doing to provide independent oversight at the Environmental Protection Agency (EPA). In addition to your already ongoing investigations into conduct by Administrator Scott E. Pruitt, we wish to draw your attention to recent revelations that the Administrator appears to have attempted to use his office to benefit himself and his family in business matters unrelated to federal government work.

Federal ethics laws¹ prohibit public officials from using their position of authority for private gain. News accounts based on emails released pursuant to the Freedom of Information Act (FOIA) report that the Administrator discussed at least two business opportunities for his wife, Mrs. Marlyn Pruitt, with CEOs, apparently while on duty as EPA Administrator. The emails released under FOIA also show that the Administrator directed federal staff to set up meetings with Chick-Fil-A executives shortly after he entered office in May 2017 in order to seek a highly sought-after and likely profitable franchise opportunity. And on June 6, 2018, the Administrator appeared on camera via Nexstar Media Group, which owns local television stations around the country, in his official capacity where he did not deny that he had sought the business opportunity for his wife. Instead, the Administrator used the opportunity to promote the private business on television—another possible federal ethics violation.²

Administrator Pruitt also reportedly called the CEO of Concordia, a non-profit organization, to help Mrs. Pruitt find temporary employment for \$2,000 as an event planner for Concordia that enabled her to work at the same conference where the Administrator appeared as a featured speaker. The Washington Post article³ documenting these business pursuits further cite EPA employees stating that the Administrator had told them that he was eager for his wife to start receiving a salary. His participation in this event may also have been barred by federal ethics laws⁴ that prohibit him from participating in a particular matter involving specific parties, such as this event, that is likely to have a direct and predictable effect on the financial interests of his spouse.

¹ 5 CFR 2635.702

² <https://oge.gov/web/oge.nsf/Resources/Endorsing+Organizations,+Products,+or+Persons>

³ https://www.washingtonpost.com/national/health-science/scott-pruitt-enlisted-an-epa-aide-to-help-his-wife-find-a-job-at-chick-fil-a/2018/06/05/b798e4e4-5eac-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.d8ae15293dda


⁴ 18 USC 208 or 5 CFR 2635.502(a)

While reviews of public emails have turned up these two instances of Administrator Pruitt pursuing business opportunities for his family, we are concerned that there could be other, as yet unknown, business pursuits as well.

We recently requested that you look at whether the Administrator violated federal regulations by using federal employees to conduct personal work. We would like you to either supplement that investigation or open a new one to review whether the Administrator used his position—acting in his own capacity or through his official staff—to pursue private business opportunities to enrich himself or any members of his family regarding these two cases and any other financial opportunities for Administrator Pruitt's family.

As part of this inquiry, we would like to know whether he or his senior staff ever involved the EPA Office of General Counsel, including its Ethics Office, the Office of Government Ethics, or any other relevant compliance body to get the proper guidance and take necessary steps to avoid abuse of power and conflicts of interest on these types of matters.

Sincerely,



Tom Udall
United States Senator



Thomas R. Carper
United States Senator



Sheldon Whitehouse
United States Senator

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

June 14, 2018

Mr. C. Renzi Stone
Chairman and CEO
Saxum
621 N. Robinson Ave., Suite 600
Oklahoma City, OK 73102

Dear Mr. Stone:

I am writing to request documents regarding your actions in assisting EPA Administrator Scott Pruitt in obtaining highly sought-after tickets to attend the Rose Bowl on New Year's Day where the University of Oklahoma Sooners played in the semifinal for the College Football Playoff National Championship.

You have served as a member of the University of Oklahoma Board of Regents since your appointment by Governor Mary Fallin in 2015.¹ The Board of Regents is the official governing body of the school and is composed of seven citizen members appointed to seven-year terms by the Governor with the advice and consent of the State Senate.²

You are also the founder, Chairman, and Chief Executive Officer of Saxum, which describes itself as "a full-service marketing communications agency."³ Your website describes you as having "extensive experience in marketing strategy, crisis communication and public affairs for energy companies."⁴ In fact, Saxum has a large energy practice, with clients including Williams, the American Petroleum Institute, and GE Oil & Gas.⁵

At least one of Saxum's clients, Plains All American Pipeline, currently has a petition before the EPA to discharge hydrostatic test water from a pipeline in Corpus Christi, Texas.⁶

¹ *Saxum Founder Renzi Stone is Named University of Oklahoma Regent*, NewsOK (Feb. 19, 2015) (online at <https://newsok.com/article/5394780/saxum-founder-renzi-stone-is-named-university-of-oklahoma-regent>).

² University of Oklahoma, *Board of Regents* (online at www.ou.edu/regents/) (accessed June 12, 2018).

³ Saxum, *Our Story* (online at <https://saxum.com/who-we-are/about/>) (accessed June 12, 2018).

⁴ Saxum, *C. Renzi Stone* (online at <https://saxum.com/who-we-are/about/>) (accessed June 12, 2018).

⁵ Saxum, *Why Energy* (online at <https://saxum.com/what-we-do/energy/>) (accessed June 12, 2018).

⁶ Environmental Protection Agency, *Plains All American Pipeline, LP.-Corpus Christi Terminal West – Draft NPDES Permit No. TX0140147* (online at www.epa.gov/tx/plains-all-american-pipeline-lp-corpus-christi-terminal-west-draft-npdes-permit-no-tx0140147) (accessed June 12, 2018).

On May 18, 2018, Committee staff conducted a transcribed interview with Millan Hupp, Administrator Pruitt's former Director of Scheduling and Advance. During her interview, she informed Committee staff that you provided Administrator Pruitt with Rose Bowl tickets for him and his family:

- Q: Do you know where Mr. Pruitt got his Rose Bowl tickets?
A: I do.
Q: Where?
A: From an acquaintance that works in some capacity for the university.
Q: Who's that person?
A: He serves as a—I'm sorry, I forget the term. He serves—he serves in some capacity for the university.
Q: Do you remember his name?
A: His name is Renzi.
Q: I'm sorry?
A: Renzi.
Q: Can you just spell it?
A: R-e-n-z-i.
Q: Is that a last name or—
A: That's a first name.
Q: First name. What's his last name?
A: Stone.
Q: And did he give the tickets to Mr. Pruitt?
A: No.
Q: Mr. Pruitt paid for them?
A: He did.
Q: Do you know what he paid for them?
A: I do not.⁷

Federal ethics rules prohibit government employees from accepting gifts, such as tickets to sporting events, unless they pay "market value."⁸ A gift includes "any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."⁹

Federal ethics rules also prohibit government employees from soliciting or accepting gifts from a "prohibited source," which is defined as someone who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;

⁷ House Committee on Oversight and Government Reform, Interview of Millan Hupp (May 18, 2018).

⁸ 5 C.F.R. § 2635.203(b)(10).

⁹ 5 C.F.R. § 2635.203(b).

- (4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in paragraphs (d)(1) through (4) of this section.¹⁰

Moreover, a government employee may not accept a gift provided "because of the employee's official position."¹¹

Based on the information set forth above, I request that you produce, by June 28, 2018, the following documents, covering the time period from January 20, 2017, to the present:

- (1) all documents and communications between you, Administrator Pruitt, or any of your agents or representatives on any topic;
- (2) all documents and communications referring or relating to obtaining Rose Bowl tickets or any other tickets, gifts, or benefits for Administrator Pruitt or his family, including but not limited to:
 - (a) how the tickets were requested, by whom, and when was the request made;
 - (b) the process by which you obtained the tickets;
 - (c) the number of tickets/seats requested and obtained;
 - (d) the location of the seats for the tickets as well as the seat locations that Administrator Pruitt and his family members used;
 - (e) any additional benefits that came with the tickets such as food or drinks;
 - (f) the cost of the seats, including the face value of the tickets and the market value or price that similar tickets were sold in a comparable timeframe;
 - (g) whether Administrator Pruitt or anyone else paid for the tickets, the amount paid, and the manner of payment; and
 - (h) for whom or what block of recipients the tickets were originally reserved;
- (3) all documents and communications referring or relating to Administrator Pruitt's trip to California for the Rose Bowl, including but not limited to:
 - (a) Administrator Pruitt's security arrangements;
 - (b) tickets, parking, accommodations, or other arrangements for Administrator Pruitt and/or his security team;
 - (c) other events or activities during the trip, such as attending Walt Disney World or the Rose Bowl parade; and

¹⁰ 5 C.F.R. § 2635.203(d).

¹¹ 5 C.F.R. § 2635.202.

Mr. Renzi Stone

Page 4

- (4) all documents and communications referring or relating to the discussion of any other matters with Administrator Pruitt or EPA staff, including but not limited to any business requested, proposed, or completed by your company or any of your company's clients who have business or matters before the EPA.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Elijah E. Cummings". The signature is stylized with a large, sweeping "E" and a prominent "C" at the end.

Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman

Congress of the United States
Washington, DC 20515

June 8, 2018

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

The Honorable John P. Cronan
Acting Assistant Attorney General
U.S. Department of Justice, Criminal Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Director Wray and Acting Assistant Attorney General Cronan:

We write you with grave concerns that Environmental Protection Agency (EPA) Administrator Pruitt has used his public office and official, taxpayer-funded resources for the personal gain of himself and his family, in violation of federal law.

This week's revelation that Administrator Pruitt used his public office – including both his position and EPA staff – to attempt to get his wife a Chick-fil-A franchise is the latest in a string of unethical spending and management decisions that have given rise to twelve federal investigations. Administrator Pruitt directly, and admittedly, used EPA resources to attempt to secure a job for his wife.

E-mails released to the Sierra Club under Freedom of Information Act requests showed that Sydney Hupp, then a scheduler for Administrator Pruitt, contacted Chick-fil-A's Chief Executive Officer Dan Cathy in May 2017 per Pruitt's request to set up a meeting regarding a "potential business opportunity." When Pruitt spoke with Chick-fil-A, he revealed then that the "business opportunity" was a request that his wife become a Chick-fil-A franchisee.¹

¹ Eilperin, Dennis, and Dawsey, "Scott Pruitt Enlisted an EPA Aide to Help His Wife Find a Job – with Chick-fil-A," *Washington Post*, June 5, 2018, accessed here: https://www.washingtonpost.com/national/health-science/scott-pruitt-enlisted-an-epa-aide-to-help-his-wife-find-a-job-at-chick-fil-a/2018/06/05/b798e4e4-5eac-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.b110ece5cc23

Following these reports, Administrator Pruitt seemingly confirmed to a reporter that he had in fact used his office to help his wife become a Chick-fil-A franchisee. When asked to explain the reports, Pruitt responded:

“...look, my wife is an entrepreneur herself, I love, she loves, we love Chick-Fil-A as a, as a franchise of faith, and it's one of the best in the country, and so, that's something we were very excited about... So, and we need more of them in Tulsa and we need more of them across the country... So anyway it's an exciting time.”²

Pruitt later made another attempt to secure his wife a job using his position at the EPA. Pruitt reportedly approached Matthew Swift, the chief executive of Concordia, a New York nonprofit. Swift later paid Marlyn Pruitt \$2,000, plus travel expenses, to help with logistics for the group's annual conference in September – a conference at which Administrator Pruitt spoke.

Further, Administrator Pruitt agreed to a meeting with Swift the week after the event in September, met with Swift again in February, and planned a number of other meetings—some disclosed, but a number of undisclosed meetings as well—stemming from the conference his wife organized for Concordia.³ It remains unclear whether the EPA under Administrator Pruitt has taken actions that might benefit these organizations and companies since those meetings.

April reports revealed that Administrator Pruitt had worked out a special deal on condominium rent with the wife of an industry lobbyist who represents companies regulated by the EPA and who was an active contributor to his political career. Pruitt had been paying just \$50/night for a Capitol Hill condominium, and only for the nights he used a bedroom in the townhouse, a sum well below the market value.⁴ Pruitt's daughter also stayed in the townhouse in a separate room, at no added cost.

Despite Pruitt's testimony to the contrary before Congress, documents from the firm of Pruitt's lobbyist-landlord showed that he lobbied the EPA several times on behalf of clients.⁵ Companies represented by the firm of Pruitt's landlord also benefitted from EPA decisions during Pruitt's stay in the townhouse—the extent of which we still do not fully know.⁶ The townhouse is also a known GOP fundraiser site, and several fundraisers were held during the timeframe that Administrator Pruitt was staying there. Pruitt did not report the details of this concerning arrangement to ethics counsel at the EPA, nor to the public, beforehand.

² Jessica Smith on Twitter: <https://twitter.com/JessicaASmith8/status/1004421219888848897>

³ According to the Sierra Club e-mails, Pruitt met with Nate Morris, CEO of Rubicon Global, a Georgia-based waste and recycling company, financier T. Boone Pickens and Andrew Littlefair, co-founders of natural gas transportation company Clean Energy, and Concordia leadership council members George Logothetis, a Greek shipping magnate, among others. <https://www.politico.com/newsletters/morning-energy/2018/06/06/rfs-changes-on-hold-243068>

⁴ Lipton, Eric, “Pruitt Had a \$50-a-Day Condo Linked to Lobbyists. Their Client's Project Got Approved,” *The New York Times*, April 2, 2018, accessed here: <https://www.nytimes.com/2018/04/02/climate/epa-pruitt-pipeline-apartment.html>

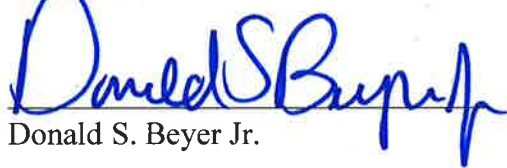
⁵ Biesecker, Michael, “Lobbyist Tied To EPA Chief's Condo Tried To Influence Agency,” *Associated Press*, June 2, 2018, <https://www.apnews.com/374e522f4a5b47e58db436f7c43832cd>

⁶ Visser, Nick, “EPA Reportedly Approved Pipeline Project Linked to Lobbyist Renting Room to Pruitt,” *The Huffington Post*, April 3, 2018, accessed here: https://www.huffingtonpost.com/entry/scott-pruitt-pipeline-project-apartment_us_5ac307bbe4b04646b64577c3

At the very least, we know that federal ethics laws bar public officials from using their position or staff for private gain.⁷ Administrator Pruitt has certainly done just that. Further, his actions related to his wife's employment and the quid-pro-quo condo situation with industry lobbyists may have crossed a line into criminal conduct punishable by fines or even by time in prison.

We formally request that the FBI open an investigation into Administrator Scott Pruitt's conduct to assess whether he broke the law, including criminal statutes prohibiting public corruption.

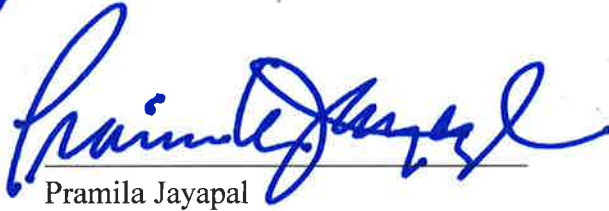
Sincerely,


Donald S. Beyer Jr.


Gerald E. Connolly


Jamie Raskin


Ruben Gallego


Pramila Jayapal


Ted W. Lieu

Cc: The Honorable AnnaLou Tirol, Acting Chief, Public Integrity Section, U.S. Department of Justice, Public Integrity Section, 950 Pennsylvania Avenue, NW, Washington, DC 20530

⁷ 5 C.F.R. § 2635.702 provides that "An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations". Accessed here: <https://www.law.cornell.edu/cfr/text/5/2635.702>

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 15, 2018

Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, DC 20460

Dear Inspector General Elkins:

As the supervising ethics office for the Executive branch, the U.S. Office of Government Ethics (OGE) leads an ethics program designed to prevent conflicts of interest on the part of Executive branch employees. In an April 6, 2018, letter to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official of the U.S. Environmental Protection Agency (EPA), I raised concerns about the various reported actions of Scott Pruitt, Administrator of the EPA as they may have constituted violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) and Executive Order 13770.¹ I now write to you to request that your office investigate new allegations in addition to those identified in my April 6 letter.²

A variety of sources raise concerns about the Administrator's use of his position. Specifically, recent reports raise additional questions regarding the Administrator's use of subordinates' time to search for housing and furniture for the Administrator.³ Recent news reports further allege that the Administrator used his security detail to complete other personal errands for him on official time.⁴ Additionally, recent articles suggest that Administrator used a staff member and his official position to seek business opportunities for his wife with

¹ Letter from David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics, to Kevin Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency (Apr. 6, 2018), <https://t.co/s4yN7EcbO9>.

² See 5 U.S.C. app. § 402(f)(2); 5 C.F.R. § 2638.501.

³ Lisa Friedman & Eric Lipton, *Aide Sought a New Apartment for Scott Pruitt, and an 'Old Mattress' from Trump Hotel*, N.Y. TIMES (June 4, 2018), <https://www.nytimes.com/2018/06/04/climate/pruitt-epa-apartment-aide.html>; Erica Orden, *EPA Chief Scott Pruitt Asked Employee to Run Personal Errands*, WALL ST. J. (June 4, 2018), <https://www.wsj.com/articles/epa-chief-scott-pruitt-asked-employee-to-run-personal-errands-1528138826>.

⁴ Juliet Eilperin et al., *Pruitt Enlisted Security Detail in Picking Up Dry Cleaning, Moisturizing Lotion*, WASH. POST (June 7, 2018), https://www.washingtonpost.com/news/energy-environment/wp/2018/06/07/pruitt-enlisted-security-detail-in-picking-up-dry-cleaning-moisturizing-lotion/?noredirect=on&utm_term=.fd9997e1e1df.




Chick-fil-A,⁵ among others.⁶ These reports raise concerns about whether the Administrator misused his position.⁷

Based on correspondence from Mr. Minoli,⁸ your letter to Congress,⁹ and OGE's communications with your office in which we have provided technical assistance at your request on several issues related to that investigation, I know that you are already looking into the alleged conduct I raised in my April 6 letter. OGE now requests that you also investigate and analyze the newly alleged conduct described above. Further, it is our understanding that you plan to issue a report concerning the previous (and possibly new) allegations. We ask you to complete your report, as soon as possible, so that we can decide whether to begin a formal corrective action proceeding in order to make a formal recommendation to the President.¹⁰

As noted to Mr. Minoli, the American public needs to have confidence that ethics violations, as well as the appearance of ethics violations, are investigated and properly addressed. The efficacy of, and public trust in, our Government demands it. If you have any questions, please do not hesitate to contact my office.

Sincerely,



David J. Apol
Acting Director and General Counsel

cc: Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official,
U.S. Environmental Protection Agency

⁵ Alexander C. Kaufman, *Scott Pruitt Faces Mounting Calls for Investigations into Chick-fil-A Scandal*, HUFFINGTON POST (June 11, 2018), https://www.huffingtonpost.com/entry/scott-pruitt-chick-fil-a-investigations-oge_us_5b1ebd43e4b09d7a3d75b3cf; Ellen Knickmeyer & Michael Biesecker, *EPA Director Pruitt Laughs off Chick-fil-A Controversy as Senior Aide Quits*, TIME (June 6, 2018), <http://time.com/5303918/epa-scott-pruitt-chick-fil-a-aide-quits/>; Lisa Friedman, *Scott Pruitt Sought 'Business Opportunity' With Chick-fil-A While Leading E.P.A.*, N.Y. TIMES (June 5, 2018), <https://www.nytimes.com/2018/06/05/climate/pruitt-epa-chick-fil-a.html>.

⁶ Juliet Eilperin et al., *EPA Chief Scott Pruitt Tapped Aid, Donors to Help Wife Land Job at Conservative Group*, WASH. POST (June 13, 2018), https://www.washingtonpost.com/national/health-science/epa-chief-scott-pruitt-tapped-aide-donors-to-help-wife-land-job-at-conservative-group/2018/06/13/f54c87fa-6db1-11e8-afd5-778aca903bbe_story.html?utm_term=.eff67c03c8bf.

⁷ 5 C.F.R. §§ 2635.702, .705(b).

⁸ Letter from Kevin Minoli, Principal Deputy Gen. Counsel and Designated Agency Ethics Official, U.S. Env'tl. Prot. Agency, to David J. Apol, Acting Dir. and Gen. Counsel, U.S. Office of Gov't Ethics (Apr. 9, 2018).

⁹ Letter from Arthur A. Elkins, Jr., Inspector Gen., U.S. Env'tl. Prot. Agency, to Hon. Don Beyer, U.S. House of Representatives (Apr. 25, 2018).

¹⁰ 5 C.F.R. § 2638.504.

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

July 13, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to request that you issue a subpoena to compel the Environmental Protection Agency (EPA) to produce documents it has failed to produce about policies implemented by ousted Administrator Scott Pruitt to withhold information about his tenure in response to Freedom of Information Act (FOIA) requests.

On June 11, 2018, I wrote to former Administrator Pruitt requesting that he produce documents by June 25, 2018.¹ EPA's only response to date has been an email from an EPA official providing a link to documents already publicly released under FOIA—some of the same documents I already cited in my request letter. Information recently obtained by the Committee confirms that EPA is using a process in which political appointees review FOIA requests and hand select requests to be processed by a different team if they are complex or “politically charged.” Responses to FOIAs are at times deliberately delayed, and political appointees review responses to FOIA requests before they are released. In at least one instance, EPA gave favorable treatment to an industry lobbyist.

During a Committee hearing in 2011, you criticized an official from the Department of Homeland Security for having political appointees review FOIA responses. You asked the witness, “Would you concede that slow walking or taking your time in complying with an otherwise legitimate FOIA request could be interference?”² I ask that you show that same concern for the way this Administration is implementing FOIA.

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Administrator Scott Pruitt, Environmental Protection Agency (June 11, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-06-11.EEC%20to%20Pruitt%20re.%20FOIA%20requests.pdf>).

² House Committee on Oversight and Government Reform, *Hearing on Why Isn't the Department of Homeland Security Meeting the President's Standard on FOIA?*, 112th Cong. (Mar. 31, 2011) (online at www.gpo.gov/fdsys/pkg/CHRG-112hhrg67719/pdf/CHRG-112hhrg67719.pdf).

Special Process for “Politically Charged” FOIA Requests

On June 29, 2018, bipartisan Committee staff interviewed Administrator Pruitt’s Chief of Staff, Ryan Jackson, who continues to serve in that capacity despite Administrator Pruitt’s departure. Mr. Jackson confirmed that EPA is using a new process for responding to FOIA requests for information from the Office of the Administrator or other “complex” and “politically charged” FOIA requests. He stated:

Deputy Administrator Perciasepe established this FEAT team. I can’t remember what the acronym stands for at this point, but I think it’s FOIA Expertise Assistance Team, in not the environmental information office but general counsel’s office to help process some of the more complex, maybe even politically charged FOIA productions.³

According to Mr. Jackson, he or Elizabeth Beacham White, the Director of the Executive Secretariat, run a list of FOIA requests through the Office of Public Affairs to decide which requests will be processed:

- Q: Who makes the determination if they go to the FEAT team or elsewhere in the agency?
- A: So—
- Q: Are these only for requests about the Administrator’s office records or is this for the whole all of EPA?
- A: Primarily it’s FOIA requests that deal with emails for documents that deal with individuals that work in the office of the Administrator, but not always. If it’s complex, if it’s very involved, the FEAT team gets involved.
- Q: So who decides whether it goes to the FEAT team or not?
- A: Well, we have our own, Eric Wachter, [who’s] in charge of the office of the administrative—the Office of the Executive Secretariat who gets a list of the FOIAs that are coming into the agency each week.
- Q: Who is that?
- A: It is the director of the Office of the Executive Secretariat.
- Q: I need to know the person’s name. Who is it that—
- A: Her name is Elizabeth White. She and I have our public affairs office, to the extent that we have the opportunity to, will identify certain productions that we are interested in getting help with. There’s really limited amount of people at EPA that really work on FOIA productions. We probably get just at headquarters alone, and I think that this may only involve the Administrator’s office, and what I mean by that is the office of policy, office of congressional affairs, office of—not just Pruitt’s office, probably 40 to 60 new FOIAs a week.⁴

Mr. Jackson pointed to a FOIA request by the Sierra Club for email communications between senior EPA officials and outside entities as an example of a “politically charged” request:

³ House Committee on Oversight and Government Reform, Interview of Ryan Jackson (June 29, 2018).

⁴ *Id.*

- Q: So you used the term politically charged as one of the categories. Can you describe what that means?
- A: Well, you know, we are talking about the Sierra Club release, the request was—I can't remember the original request, but the request was we would like to get all of the emails sent by, or maybe received by, but definitely sent by this group of people since they began working at EPA. So, that's pretty much a fishing expedition. There's a bit of a disagreement on if that's even a proper request. But we tried to accommodate that request really at much and probably more than what we needed to. We really needed to—
- Q: So what would make that a politically charged—that's the piece I am not—there are a lot of very broad FOIA requests that every agency receives. What differentiates one from the next? What about that one made it politically charged, in your view?
- A: There's no—there was no reason for it. There was no topic. It was just a fishing expedition. And so when I say it's politically charged, there's no real FOIA, you know, Freedom of Information Act reason for it, it is just simply submitted to us to see what we will produce. And so what I wanted to do—
- Q: So you don't think that intercommunications between the Administrator, senior staff with outside entities—you don't think there's a public interest, a legitimate public interest in those?
- A: There is a huge legitimate public interest, but I think it is really important at the same time to specify what you are interested in, because FOIA is not meant to allow open ended requests and to be as if, you know, the requester is a fly on the wall.
- Q: So are there particular groups that if they send requests that they are automatically sent to the FEAT team or categorized?
- A: No. It just depends on what it is.
- Q: So it's the breadth of the request? The subject of the request?
- A: Sometimes.⁵

Mr. Pruitt's Senior Counsel, Samantha Dravis, said during her transcribed interview that in some cases, the Office of General Counsel identifies responsive documents rather than the custodian of the documents:

So my understanding is that during the Obama administration it was individual custodians. So if there's a request for your emails, you would search your own files and your own emails. In the Pruitt era, we—that was shifted. And it is career Agency officials, I believe in the Office of General Counsel, who run the search. They go through my emails. They pull the relevant documents. And they make the relevant redactions, if any.⁶

⁵ *Id.*

⁶ House Committee on Oversight and Government Reform, Interview of Samantha Dravis (June 28, 2018).

Deliberate Delays in Responding to FOIA Requests

According to Mr. Jackson, some FOIA responses are deliberately delayed:

- Q: [C]an you think of times when there were FOIA productions came to you and you saw things that you thought out to be redacted and you flagged that?
- A: Probably so. But we also, you know, make decisions on we've got this FOIA working on this track, this FOIA working on this track, maybe it would be best to wait on this FOIA production until we get this much bigger one done, there may be, you know, just like a week or two delay in that, so that we can just produce them all at one time.
- Q: Can you think of a specific example when that's happened?
- A: I think that I can think of a few examples of that, but it's been a while back, and so I'm going to—I'm really going to butcher my recollection of it if I tried. I mean, it's happened, though. I'm going to butcher my explanation if I just rely on my recollection of it.
- Q: If you would just give it a shot. I mean—
- A: Yeah. It's occurred. We try to coincide releases. I can't—I can't remember what those may be.⁷

Mr. Jackson confirmed that EPA is using a “first in, first out” policy in which requests from the current Administrator are delayed in order to respond to requests from previous Administrations:

- Q: So it's just FOIA regulations require multitrack processing which seems at odds with this new policy. Can you explain that?
- A: You'd have to tell me more of what you mean.
- Q: Well, if the regulations require processing requests on two different tracks, complex requests and simple requests.
- A: Uh-huh.
- Q: And it is first in, first out within those different tracks, not a larger first in and first out. But what I have heard you saying sounds like older requests were prioritized over new requests.
- A: It is the case that the 10 years of FOIA requests that were in a state of I think they were not being responded to at all, some are cleared out. And then we move forward with the request that we receive in the order in which we received them. Now if—even while we were clearing out that 10-year backlog we receive a new request that is just, you know, a few pages, we would kick that out, we would produce that and kick that out—because just because there's 10 years of backlog doesn't mean that there is 10-years of backlog in every program office, some program offices didn't have any. And so if—and especially in those cases, if we received a FOIA request that dealt with program offices that didn't have a backlog and especially in a situation where it was

⁷ House Committee on Oversight and Government Reform, Interview of Ryan Jackson (June 29, 2018).

easily responded to, that was just produced.⁸

Ms. Dravis confirmed that EPA is using a “first in, first out” policy for responding to FOIA requests:

- Q: During Mr. Pruitt’s tenure, it’s our understanding the EPA switched the FOIA policy to a first in, first out arrangement. Do you have any knowledge of that?
A: I do recall that we implemented a policy of, more or less, first in, first out.⁹

Political Appointees Review FOIA Responses Before Release

Mr. Jackson confirmed that he and other political appointees have the ability to review FOIA responses before they are produced to requesters:

Like I said, I probably do receive a number of them. I don’t really know that I receive all of them. There are new individuals in that process now, not only is public affairs aware of what is going out, our Office of Executive Secretariat, when that was issued is when we discovered—we found that not only is there 10-years of backlog, but there is this very decentralized way that FOIAs are produced.¹⁰

Ms. Dravis said during her transcribed interview that she also sometimes reviewed FOIA responses before they were released:

- Q: Did you ever personally review a potential response that wasn’t about your equity?
A: I may have. I may have, yes. I may have, but not for an equitable review but just an FYI.
Q: Do you remember specifically which—
A: I don’t remember specifics, but I think if it was highly significant, then it could be something that, perhaps, myself or the communications team or, you know, senior officials could be given an FYI of.¹¹

Mr. Jackson also said that he has weighed in to recommend redactions:

- Q: I just want to know what’s happening now and who’s reviewing them before they go out. And then also whether you have the opportunity to object. If you see something that’s redacted that you think shouldn’t be or something you think wasn’t redacted that you think ought to be, do you have the opportunity to weigh in on that?
A: I have the opportunity.
Q: And did you ever exercise that opportunity?

⁸ *Id.*

⁹ House Committee on Oversight and Government Reform, Interview of Samantha Dravis (June 28, 2018).

¹⁰ House Committee on Oversight and Government Reform, Interview of Ryan Jackson (June 29, 2018).

¹¹ House Committee on Oversight and Government Reform, Interview of Samantha Dravis (June 28, 2018).

A: I have stressed that personal information like cell phones, Social Security numbers, really get a second pair of eyes and a double scrubbing because we have released those and we shouldn't have. Sometimes there's been a couple of times when I have received a request and I have added to it or we're aware of other documents that I thought were responsive. I don't know if it meets the legal definition of responsive and we have added to it.¹²

An email produced by EPA in response to FOIA litigation by the Sierra Club indicates that Mr. Jackson helped the National Pork Producers Council obtain a meeting with EPA policy staff and lawyers about a pending FOIA request following a request by Mr. Jackson's personal friend, Michael Formica, who serves as an Assistant Vice President for the Pork Producers Council.¹³

During his transcribed interview with Committee staff, Mr. Jackson had this exchange:

Q: Is it typical for you to I guess facilitate getting the FOIA office to help a FOIA requester get an answer to their FOIA?

A: Well, when—in this case what it appears to me is that Michael emailed me about a FOIA request that they had. People email me about a lot of things and people email me with asking help for a lot of things. I would love to be able to bird dog all of those issues and respond to everybody and I can't. In this case, Byron has had quite a bit of experience with FOIA, actually Byron was a career deputy general counsel in OGC during the Bush administration and Obama administration. And I just asked if he could help me with processing that. I don't know that I even met with these folks on this meeting and really I am not sure what came of it.

Q: Okay. If the Sierra Club, and [NRDC], American [O]versight reached out to [you] with similar requests would you facilitate a meeting for them?

A: It's a possibility.

Q: Because they seem to all be having to litigate to get a response to their FOIA requests?

A: Well, I suggest that if they target their requests a little bit more so that I could more readily help them, that might help them out.

Q: Do you have a relationship, a personal one with Michael Formica?

A: Yeah, I've known Michael for years.

Q: So is the facilitation of the FOIA request done in this case because he's a personal friend of yours or because he worked for the National Pork Producers

¹² House Committee on Oversight and Government Reform, Interview of Ryan Jackson (June 29, 2018).

¹³ Email from Michael C. Formica, National Pork Producers Council, to Chief of Staff Ryan Jackson, Environmental Protection Agency (July 3, 2017); Email from Chief of Staff Ryan Jackson, Environmental Protection Agency, to Deputy Chief of Staff Byron Brown, Environmental Protection Agency (July 3, 2017); Email from Michael C. Formica, National Pork Producers Council, to Chief of Staff Ryan Jackson, Environmental Protection Agency (July 11, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/ED_001523_00003623_0_ef19927b-c085-4aaa-a9a5-cbb6b9f7a86f.pdf).

Council?

A: It's because I was contacted by someone asking that I could—if I could help with this. As I described, Byron has years of experience with FOIA productions. I thought that he could help me with responding to it. I don't know that I had any further contact with Michael on this.

Q: Yeah. My question is did you do it because Michael is a friend of yours?

A: No.

Q: Did you do it because Michael works for the National Pork Producers Council?

A: No.

Q: So did you do it because you wanted to assist the National Pork Producers Council in getting a response to their FOIA?

A: Yes or getting someone to actually meet with them and help them. I don't know what the FOIA was about, other than livestock emissions.

Q: So if you don't know what the FOIA was about, how do you know that you did it because you wanted them to respond to that particular FOIA?

A: What now?

Q: So you said you didn't do this because Michael Formica is a friend of yours, right?

A: Uh-huh.

Q: Are you sure on that one?

A: Yes.

Q: Okay. And you didn't do it because he sent you a FOIA from the National Pork Producers Council, right?

A: Right.

Q: So then the reason you must have done it, I assume, was based on the specifics of the FOIA that you wanted to assist someone based on the specifics that was in the FOIA.

A: Not necessarily. I mean if somebody contacts me, I am assuming it's because they have exhausted as many things as they can in order to get whatever remedy that they are looking for. Maybe not, but I'm assuming so. If there's an opportunity for me to facilitate them getting a meeting so that they can—and maybe not even get what they're looking for but at least get their matter addressed, whether it be, you know, full cooperation with it or simply being told no and why, I am going to try to do that.

Q: Have you tried to do that for other entities trying to get FOIA responses?

A: I don't remember one, but I don't know that I ever got asked about anybody else, anybody else's FOIA response.¹⁴

Subpoena Request

For the reasons described above, I request that you issue a subpoena for the following documents covering the period between January 20, 2017, to the present:

¹⁴ House Committee on Oversight and Government Reform, Interview of Ryan Jackson (June 29, 2018).

1. all documents and communications referring or relating to the order in which FOIA requests should be processed at EPA;
2. all documents and communications referring or relating to any process used by EPA to prioritize responses to FOIA requests;
3. all documents and communications referring or relating to FOIA requests that were rejected for being not reasonably described;
4. all documents and communications referring or relating to the process for determining whether a FOIA request is reasonably described;
5. all documents and communications referring or relating to the process for handling FOIA requests for information from the Office of the Administrator;
6. all responses provided to FOIA requests for information from the Office of the Administrator;
7. documents and communications referring or relating to reviews by Trump Administration political appointees to review FOIA requests or responses; and
8. documents and communications referring or relating to any review of FOIA requests or responses by White House employees.

If you choose not to issue these subpoenas yourself, then we ask that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members will have the opportunity to vote on a motion to issue these subpoenas.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
CHRIS VAN HOLLEN, MARYLAND

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

March 28, 2018

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental and Protection Agency (EPA)
1301 Constitution Ave. NW, Rm 3102
Washington, DC 20460

Dear Mr. Elkins:

I write to request that the Office of Inspector General conduct an immediate review of Environmental Protection Agency's (EPA) efforts to prevent fraud related to employee time and attendance, including an investigation of potential fraud committed by Administrator Pruitt's political staff. Specifically, I have been informed that Ms. Samantha Dravis, Associate Administrator of EPA's Office of Policy, did not attend work or perform her duties for much if not all of the months of November 2017–January 2018. I am additionally informed that Ms. Dravis was likely compensated as a full-time employee throughout that time.

This is not the first time that reports of time and attendance problems have plagued the agency. In 2013, EPA learned that John Beale, a senior career official, had defrauded the agency for years by claiming that his months-long absences from work were attributable to his undercover work for the CIA. He was sentenced to 32 months in prison¹ and the case was the subject of considerable Congressional² interest.³ This matter also led to several reports, written by EPA⁴ and by you⁵, recommending improvements in EPA's oversight of employee time and attendance practices.

The information my office received, particularly in light of the fact that Ms. Dravis is a senior political appointee, raises questions about whether EPA is adhering to its corrective actions regarding employee time and attendance. These actions, including timekeeping oversight, were implemented to ensure that nothing like John Beale's criminal fraud "could ever happen at EPA again."⁶ I request that you quickly investigate the specific allegations surrounding the information I have received regarding Ms. Dravis, as well as any related systemic problems in EPA's oversight of its employee time and attendance practices.

Thank you for your consideration of this matter.

Yours Sincerely,



Tom Carper
Ranking Member

¹ https://www.epa.gov/sites/production/files/2015-09/documents/ig_statement_sentencing_of_john_c_beale_12-18-13_.pdf

² <https://www.epw.senate.gov/public/index.cfm/press-releases-republican?ID=2090BF37-CCA5-8FA8-CEF1-98C820804D1E>

³ <https://www.gpo.gov/fdsys/pkg/CHRG-113hhrg85907/pdf/CHRG-113hhrg85907.pdf>

⁴ https://www.eenews.net/assets/2014/04/25/document_gw_07.pdf

⁵ <https://www.epa.gov/sites/production/files/2015-09/documents/20150615-15-p-0167.pdf>

⁶ https://www.eenews.net/assets/2014/04/25/document_gw_07.pdf

April 24, 2018

Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, DC 20460

Re: Ethics Advice to EPA Administrator Scott Pruitt and other EPA officials

Dear Mr. Elkins:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Inspector General (“OIG”) review and investigate the process by which ethics advice and determinations are provided to EPA Administrator Scott Pruitt and other EPA appointees by agency ethics officials and other legal advisors. The clearly inadequate handling of the numerous, increasingly outrageous ethical issues that have recently come to light suggests that the process is broken, and may be compromised by the fear of retaliation against officials who question Administrator Pruitt’s conduct.

The mission of the executive branch ethics program is to ensure that public servants “make impartial decisions” based on the public interest, “serve as good stewards of public resources, and loyally adhere to the Constitution and laws of the United States.”¹ The ethics program seeks to “ensure the integrity of government decision making and to promote public confidence by preventing conflicts of interest” and “to build and sustain an ethical culture in the executive branch.”²

Several matters involving Administrator Pruitt and other senior EPA appointees raise serious concerns both about the process by which ethics advice and determinations are sought and made at EPA, and whether ethics and other laws were violated. These matters include allegations of accepting prohibited gifts, misusing government resources, and abusing travel and special hiring authorities, as well as engaging in retaliatory actions directed at employees who voiced objections to the conduct of top officials.

The tone for an agency’s ethics program is set at the top. A robust program demands that the head of the agency and other officials make a good faith effort to seek and follow ethics advice obtained from agency ethics officials. Any good faith effort requires that the advice be sought prior to taking any action that could implicate ethics laws and regulations, that all relevant information be fully disclosed to ethics officials, and that ethics officials feel comfortable providing uninhibited guidance. In turn, ethics officials must be held to rigorous standards in the advice and determinations they provide.

¹ 5 C.F.R. § 2638.101(b).

² 5 C.F.R. § 2638.101(c).

Yet EPA's ethics program appears to be broken and in disarray. In some cases, Administrator Pruitt and other officials appear to have sought ethics advice after the fact, without having disclosed all relevant facts. In others, they appeared not to have obtained ethics advice at all. Even worse, allegations of retaliation against officials who challenged the conduct of top officials undermines confidence in the decision-making process for ethics matters.

All of this contributes to an overwhelming perception that the head of EPA and his staff have engaged in a pattern of misconduct that undermines the integrity of the agency's policy-making process. A thorough investigation and review by OIG is necessary to fully understand the systemic failures facing the agency's ethics program.

Ethics Process Issues and Potential Violations

The last several months have seen a series of reports of ethically questionable conduct at EPA, most involving Administrator Pruitt and his top aides. These repeated incidents raise serious concerns both about their conduct and about the process by which ethics guidance is sought and provided. Following are several examples of potential ethics violations that raise these concerns and demonstrate the need for a thorough investigation and review of EPA's ethics process.

Prohibited Gift - Below-Market Lease Arrangement with Registered Lobbyist

As has been widely reported, Administrator Pruitt entered into a lease in 2017 with the spouse of lobbyist J. Steven Hart to rent a room for \$50 per day. That arrangement raises serious ethical questions that public officials and watchdog groups have asked OIG to investigate.³ In addition to those disturbing ethical issues, the process by which Administrator Pruitt sought ethics advice and determinations about the lease also is deeply troubling. Administrator Pruitt apparently failed to obtain ethics guidance before he entered the lease, and only sought a determination from EPA ethics officials after the lease arrangement became public in March 2018.⁴ When that request was made after the fact and in an urgent manner, the ethics officials were not provided all the relevant facts relating to the lease and the use of the property, and they as a result issued initial opinions retroactively determining the lease did not constitute a prohibited gift.⁵ The ethics officials themselves later called those opinions into question, saying

³ Letter from Reps. Ted W. Lieu and Don Beyer to EPA Inspector General Arthur A. Elkins, Jr., Apr. 3, 2018, available at https://beyer.house.gov/uploadedfiles/2018-04-03_letter_to_epa_inspector_general_on_pruitt.pdf; Letter from Public Citizen Government Affairs Lobbyist Craig Holman to EPA Office of Inspector General Hotline, Mar. 29, 2018, available at https://www.citizen.org/sites/default/files/pruit_rental_arrangement_request.pdf.

⁴ Jennifer A. Dlouhy and Jennifer Jacobs, *EPA Chief's \$50-a-Night Rental Raises White House Angst*, *Bloomberg*, Mar. 29, 2018, available at <https://www.bloomberg.com/news/articles/2018-03-30/epa-chief-s-50-a-night-rental-said-to-raise-white-house-angst>.

⁵ Memorandum from Kevin S. Minoli, Designated Agency Ethics Official & Principal Deputy General Counsel, to Matthew Z. Leopold, General Counsel, Review of Lease Agreement Under the Federal Ethics Regulations Regarding Gifts, Mar. 30, 2018 ("First Minoli Memorandum"), available at <https://www.documentcloud.org/documents/4427462-Evaluation-of-Lease-Agreement2018-03-30-152600.html> ("Entering into the lease was consistent with federal ethics regulations regarding gifts, and use of the property in

they lacked relevant information, and their approvals notably failed to address other relevant ethics requirements, including possible ethics pledge violations and the issue of whether Administrator Pruitt was instructed to recuse from participating in matters involving Mr. Hart's firm and its clients.⁶

The standards of ethical conduct bar government officials from accepting gifts directly or indirectly from prohibited sources unless an exception applies.⁷ Employees also are advised to consider declining otherwise permissible gifts if they believe that a reasonable person with knowledge of the relevant facts would question the employee's integrity or impartiality as a result of accepting the gifts.⁸ The ethics pledge signed by Administrator Pruitt pursuant to an executive order further bars him from accepting gifts from registered lobbyists or lobbying organizations.⁹

Until he resigned last Friday, Mr. Hart headed Williams & Jensen, a law firm registered to lobby EPA.¹⁰ The firm is registered to lobby EPA on behalf of such clients as OGE Energy and Owens-Illinois,¹¹ and Mr. Hart "personally represent[ed] a natural gas company, an airline giant, and a major manufacturer that had business before the agency at a time he was also renting out a room to Pruitt."¹² Another of Mr. Hart's clients is "battling the EPA in court over an order to pay more than \$100 million in environmental cleanup costs."¹³ Some of Williams & Jensen's clients have scored successes under Administrator Pruitt – in March 2017, for example, EPA

accordance with the lease agreement did not constitute a gift."); Dlouhy and Jacobs, *Bloomberg*, Mar. 29, 2018 ("He paid a fair price for what amounts to just a room . . . so I don't even think that the fact that the house is owned by a person whose job is to be a lobbyist causes us concern.").

⁶ Cristina Alesci, *EPA ethics official says he didn't have all the facts on Administrator Pruitt's lease*, *CNN*, Apr. 5, 2018, available at <https://www.cnn.com/2018/04/04/politics/pruitt-lease-epa-ethics-decision/index.html>; see 5 C.F.R. § 2635.502.

⁷ 5 C.F.R. § 2635.202.

⁸ 5 C.F.R. § 2635.201(b)(1)-(2). Relevant factors include whether: the gift has a "high market value"; the "timing of the gift creates the appearance that the donor is seeking to influence an official action"; the gift was provided by a person with "interests that may be substantially affected by the performance or nonperformance of the employee's official duties"; and acceptance of the gift would "provide the donor with significantly disproportionate access."

⁹ Executive Order No. 13770, Jan. 28, 2017, § 5.

¹⁰ Jennifer A. Dlouhy and Ari Natter, *Lobbyist Steps Down in Fallout From Pruitt Condo Controversy*, *Bloomberg*, Apr. 20, 2018, available at <https://finance.yahoo.com/news/lobbyist-steps-down-fallout-pruitt-215813538.html>.

¹¹ Williams and Jensen, PLLC, *Lobbying Disclosure Reports on behalf of OGE Energy Corp.*, Oct. 17, 2017 and Jan. 11, 2018 (reporting payments totaling \$180,000 in 2017 to lobby EPA and other government entities on issues including "EPA 111(d) proposal re Greenhouse gas emissions from existing utility plans. review of EPA regulations impacting utilities"); Williams and Jensen, PLLC, *Lobbying Disclosure Reports on behalf of Owen-Illinois, Inc.*, Apr. 14, 2017, Jul. 13, 2017, Oct. 16, 2017 and Jan. 16, 2018 (reporting payments totaling \$520,000 in 2017 to lobby EPA and other government entities on issues including "Environmental legislation impacting manufacturing sector, including EPA regulation, including Greenhouse Gas regulation; recycling of glass"). See also John Santucci, Matthew Mosk, and Stephanie Ebbs, *More Cabinet trouble for Trump: EPA chief lived in condo tied to lobbyist 'power couple'*, *ABC News*, Mar. 29, 2018, available at <http://abcnews.go.com/Politics/exclusive-cabinet-trouble-trump-epa-chief-lived-condo/story?id=54095310>.

¹² Sam Stein and Lachlan Markay, *Scott Pruitt Says His Lobbyist Landlord's Clients Didn't Have Business Before the EPA. They Did.*, *Daily Beast*, Apr. 5, 2018, available at <https://www.thedailybeast.com/scott-pruitt-says-his-lobbyist-landlords-clients-didnt-have-business-before-the-epa-they-did?ref=home>.

¹³ *Id.*

signed off on Enbridge Inc.'s pipeline-expansion plan, telling the State Department it had "no serious environmental objections."¹⁴ As a result, Mr. Hart was a prohibited source under the standards of ethical conduct, and federal employees like Administrator Pruitt are banned from accepting gifts from him.¹⁵ In addition, because Mr. Hart has been a registered energy lobbyist,¹⁶ and because his spouse, Vicki Hart, who owns the condo in which Administrator Pruitt rented a room, is a registered health care lobbyist,¹⁷ Administrator Pruitt also is barred from accepting gifts from them under the ethics pledge.¹⁸

Administrator Pruitt publicly denied that Mr. Hart had clients with business before the agency.¹⁹ However, as revealed in news reports in the last several days, Administrator Pruitt personally met with Mr. Hart at least once while he was a Williams & Jensen lobbyist.²⁰ Last week, Williams & Jensen disclosed that Mr. Hart has lobbied the EPA for Smithfield Foods, a large pork producer that was fined \$12.6 million in 1997 for dumping hog waste into Chesapeake Bay, purportedly on issues related to "support for Chesapeake Bay Programs."²¹ According to the news reports, on July 11, 2017 – while Administrator Pruitt was renting the condo from Mr. Hart's spouse – Administrator Pruitt and his chief of staff met with Mr. Hart and a former top Smithfield Foods official who is now on the board of Smithfield's philanthropic arm and a member of the Chesapeake Bay Commission.²² Smithfield Foods and Mr. Hart both denied that he was lobbying on behalf of the company, claiming his activities were done at the request of the former Smithfield official in his personal capacity.²³

Despite the prohibitions on accepting gifts, Administrator Pruitt apparently did not seek guidance from EPA ethics officials before entering the lease. In fact, he apparently did not request any review of the lease by ethics officials until the day *ABC News* broke the story that he

¹⁴ Eric Lipton, Pruitt Had a \$50-a-Day Condo Linked to Lobbyists. Their Client's Project Got Approved., *New York Times*, Apr. 2, 2018, available at <https://www.nytimes.com/2018/04/02/climate/epa-pruitt-pipeline-apartment.html>.

¹⁵ 5 C.F.R. §§ 2635.202, 2635.203(d).

¹⁶ See Williams and Jensen, PLLC, Lobbying Disclosure Report on behalf of Owen-Illinois, Inc., Jul. 13, 2017.

¹⁷ See Hart Health Strategies, Lobbying Disclosure Report on behalf of Alliance of Specialty Medicine, Jul. 5, 2017.

¹⁸ Executive Order No. 13770, Jan. 28, 2017, § 5.

¹⁹ See, e.g., Ed Henry, Full Interview: Scott Pruitt pushes back on controversies, *Fox News*, Apr. 4, 2018, available at <http://video.foxnews.com/v/5763985013001/?#sp=show-clips>. Mr. Hart also claimed he did not personally lobby the EPA in 2017 or 2018. See, e.g., Jennifer A. Dlouhy and Ari Natter, EPA Chief Pruitt Met With Lobbyist Tied to Condo Rental, *Bloomberg*, Apr. 20, 2018, available at <https://www.bloomberg.com/news/articles/2018-04-20/lobbyist-steps-down-amid-fallout-over-pruitt-condo-controversy>; Jennifer A. Dlouhy and Jennifer Jacobs, Lobbyist Tied to Condo Had Clients Facing EPA, *Bloomberg*, Apr. 6, 2018, available at <https://www.bloomberg.com/news/articles/2018-04-06/lobbyist-tied-to-pruitt-s-condo-had-roster-of-clients-facing-epa>.

²⁰ Theodor Meyer and Eliana Johnson, Lobbyist whose wife rented to Pruitt lobbied EPA despite denials, *Politico*, Apr. 20, 2018, available at <https://www.politico.com/story/2018/04/20/pruitt-condo-lobbyist-leaving-firm-543508>; Eric Lipton, Scott Pruitt Met With Lobbyist Whose Wife Rented Him a \$50-a-Night Condo, *New York Times*, Apr. 21, 2018, available at <https://www.nytimes.com/2018/04/21/climate/pruitt-hart-condo-epa-lobbying.html>; Dlouhy and Natter, *Bloomberg*, Apr. 21, 2018.

²¹ Williams and Jensen, PLLC, Lobbying Disclosure Report on behalf of Smithfield Foods, Inc., Apr. 20, 2018; Lipton, *New York Times*, Apr. 21, 2018; Dlouhy and Natter, *Bloomberg*, Apr. 20, 2018.

²² *Id.*; Meyer and Johnson, *Politico*, Apr. 20, 2018; Lipton, *New York Times*, Apr. 21, 2018.

²³ *Id.*

had rented a room from a lobbyist and the story had become a “flashpoint.”²⁴ Only then – more than a year after the lease was signed by the parties – did Administrator Pruitt’s top aides contact Senior Counsel for Ethics Justina Fugh and Designated Agency Ethics Official and Principal Deputy General Counsel Kevin S. Minoli for ethics advice.

In those consultations, however, the ethics officials were not provided the information they needed to make proper determinations. Ms. Fugh, contacted for advice on a Thursday evening while in a movie theater with her family, gave her views based on the erroneous assumption that she had been provided “all relevant circumstances.”²⁵ In her initial determination, Ms. Fugh concluded that the lease agreement did not constitute an impermissible gift based on a determination that the \$50-per-night rental fee represented fair market value.²⁶ Ms. Fugh assessed that the rental fee, for what “amount[ed] to a room,” represented market value since it would cost \$1,500 if Administrator Pruitt used it for one 30-day month.²⁷ The next day, Mr. Minoli weighed in with a brief paragraph similarly approving the lease and confirming that use of the property in accordance with the lease agreement did not constitute a gift.²⁸

A few days later, however, on April 4, Mr. Minoli submitted a more comprehensive memorandum to further explain the factual basis for his conclusion and the limited scope of his review.²⁹ Mr. Minoli reportedly was prompted to issue the second memorandum after he saw a *New York Times* article that appeared to show a “real connection” between “people [] connected to the apartment” and “specific actions the agency or the Administrator may have taken” to approve a pipeline plan for an energy client of Williams & Jensen.³⁰ To avoid the perception that his first memorandum could be used as a “cover” for other actions taken by Administrator Pruitt or the EPA,³¹ Mr. Minoli issued a second memorandum stating that he “reviewed the living arrangement in the context of the lease he was provided, *but did not assess outside circumstances raised in news reports.*”³² Ms. Fugh also later publicly stated that she was “too credulous,” and disavowed her initial advice after she learned that Administrator Pruitt (and

²⁴ Kevin Bogardus, *The story behind the ethics memos on Pruitt’s condo lease*, *E&E News*, Apr. 11, 2018, available at <https://www.eenews.net/stories/1060078765>; Zahra Hirji, *Scott Pruitt Has More Questions To Answer EPA Ethics Officials Say*, *BuzzFeed News*, Apr. 5, 2018, available at https://www.buzzfeed.com/zahrahirji/epa-pruitt-housing-controversy-memo?utm_term=.cwayZ8vWp#.wn0Jz2Y16.

²⁵ Bogardus, *E&E News*, Apr. 11, 2018; Hirji, *BuzzFeed News*, Apr. 5, 2018.

²⁶ *Id.*; 5 C.F.R. § 2635.203(b)(10). The definition of “gift” excludes anything for which “market value is paid by the employee.”

²⁷ Dlouhy and Jacobs, *Bloomberg*, Mar. 29, 2018; Zahra Hirji, *Scott Pruitt’s Apartment Deal Is At The Center Of An Ethical Storm For Trump’s EPA*, *BuzzFeed News*, Mar. 30, 2018, available at https://www.buzzfeed.com/zahrahirji/epa-pruitt-dc-housing-ethics?utm_term=.wmR3KV6Wl#.dhMmOpwqV.

²⁸ See First Minoli Memorandum.

²⁹ Memorandum from Kevin S. Minoli, Designated Agency Ethics Official & Principal Deputy General Counsel, to Matthew Z. Leopold, General Counsel, Record for “Review of Lease Agreement Under the Federal Ethics Regulations Regarding Gifts,” Apr. 4, 2018 (“Second Minoli Memorandum”), available at <https://www.documentcloud.org/documents/4431672-Record-Re-Review-of-Lease2018-04-04-163433.html>; Hirji, *BuzzFeed News*, Apr. 5, 2018.

³⁰ Bogardus, *E&E News*, Apr. 11, 2018; Lipton, *New York Times*, Apr. 2, 2018.

³¹ Bogardus, *E&E News*, Apr. 11, 2018.

³² Hirji, *BuzzFeed News*, Apr. 5, 2018 (emphasis added); Second Minoli Memorandum.

possibly others) may not have been forthcoming with all the relevant information regarding the lease and his use of the lease property.³³

These qualms did not stop Administrator Pruitt from asserting that the lease arrangement was legal and proper. Administrator Pruitt compared the arrangement to an Airbnb rental, because he did not have to pay a rental fee for the nights it was not in use.³⁴ The lease terms and his use of the premises, however, appear to have been considerably more generous than those offered under a typical Airbnb arrangement.³⁵ For example, the bedroom was made available for Administrator Pruitt's exclusive use over a period of several months like a monthly rental arrangement.³⁶ Administrator Pruitt also was able to store his "possessions on the premises when he [was] not occupying the bedroom assigned to him" at no additional charge.³⁷ The terms of the lease further allowed for Administrator Pruitt's "immediate family or transient relatives and friends" to "use or occupy the Premises."³⁸ In this regard, a second bedroom was used by Administrator Pruitt's daughter from May to August 2017 while she served as an intern in the White House Counsel's office.³⁹ Unlike Airbnb rentals that require payment up front, Administrator Pruitt at times fell behind on his rent, "forcing his lobbyist landlord to pester him for payment" but with no apparent consequences.⁴⁰

Administrator Pruitt's claims do not stand up to scrutiny. The rental fee appears below the rate charged for monthly comparable apartment rentals on Capitol Hill. The condominium apparently consisted of two bedrooms and a common area controlled by the landlord.⁴¹ Administrator Pruitt was assigned to one bedroom,⁴² while his daughter had use of the second bedroom over a period of several months.⁴³ The *Washington Post* reported that two bedroom apartments in the area rented for \$2,550 to \$4,300 a month, including a \$4,300 two bedroom listing "just steps away from the one Pruitt rented."⁴⁴ A real estate agent told the *Post* that it would be "hard if not impossible to find a two-bedroom apartment in the area for \$1,500 and

³³ Hirji, *BuzzFeed News*, Apr. 5, 2018.

³⁴ Henry, *Fox News*, Apr. 4, 2018.

³⁵ District of Columbia Residential Lease Agreement between 223 C Street LLC and Scott Pruitt, Feb. 15, 2017 ("Pruitt Lease"), ¶¶ 2-3, attached as Exhibit 1 to the Second Minoli Memorandum, available at <http://cdn.cnn.com/cnn/2018/images/04/04/new.record.re.view.of.lease2018-04-04-163433.pdf>.

³⁶ See Dlouhy and Jacobs, *Bloomberg*, Mar. 29, 2018.

³⁷ Pruitt Lease, ¶ 3.

³⁸ *Id.*

³⁹ John Santucci, Matthew Mosk, and Stephanie Ebbs, EXCLUSIVE: EPA chief Pruitt joined by family in condo tied to lobbyist 'power couple', *ABC News*, Mar. 31, 2018, available at <http://abcnews.go.com/Politics/exclusive-epa-chief-pruitt-joined-family-condo-tied/story?id=54125092>.

⁴⁰ Eliana Johnson and Andrew Restuccia, Pruitt fell behind on payments for his \$50-a-night condo rental, *Politico*, Apr. 5, 2018, available at <https://www.politico.com/amp/story/2018/04/05/scott-pruitt-condo-rental-504603>.

⁴¹ Pruitt Lease, ¶¶ 3, 16.

⁴² *Id.*

⁴³ Santucci, Mosk, and Ebbs, *ABC News*, Mar. 31, 2018.

⁴⁴ Eli Rosenberg, 'That's bizarre': Realtors weigh in on Scott Pruitt's \$50-a-night condo room deal in D.C., *Washington Post*, Apr. 7, 2018, available at https://www.washingtonpost.com/news/post-politics/wp/2018/04/07/thats-bizarre-realtors-weigh-in-on-scott-pruitts-50-a-night-condo-room-deal-in-d-c/?utm_term=.86206c6a74b2.

described the occupancy provision as ‘a little bit out the ordinary,’ saying he had never heard of such an arrangement before.”⁴⁵ Other agents described the lease provision that limited payment requirements to days of “actual occupancy” as “bizarre” and “very strange.”⁴⁶ In addition, the *Post* reported that an Airbnb search of the area located some comparably-priced bedrooms, but some were “inactive” while “others typically charged as much as double that.”⁴⁷ Some rooms were “occasionally available” at \$50 a night, but many of them were “often tightly booked for months in advance, making it unlikely a renter could spontaneously come and go as they pleased without the room being booked by someone else when they weren’t there.”⁴⁸

As a result, there appears to be no reasonable basis to conclude that Administrator Pruitt paid fair market value for use of the premises. The arrangement provided to Administrator Pruitt appears to be considerably more generous than comparably-priced Airbnb rentals; the lease payments do not represent market value and appear to constitute a prohibited gift from a person with ongoing business before the agency. As a prohibited gift, the lease arrangement appears to have given Mr. Hart’s law firm and its clients unprecedented access to and influence over the head of the EPA. Under these circumstances, the arrangements would cause a reasonable person to question the integrity of Administrator Pruitt’s decision making and, because he did not decline the gift, he must now recuse himself from participating in any particular matters involving Mr. Hart, his law firm, or its clients.⁴⁹

The process by which the Administrator Pruitt sought ethics advice for his unusual lease arrangement appears to have contributed to EPA’s issuance of highly questionable ethics guidance and thwarted the ethics officials’ ability to effectively address potential conflicts of interest. Accordingly, in addition to reviewing whether Administrator Pruitt violated any ethics rules, OIG should investigate the circumstances surrounding his request for ethics advice regarding the lease.

Misuse of Resources - Use of EPA staff for Administrator Pruitt’s personal purposes

News reports indicating that Administrator Pruitt may have improperly used EPA staff time for an apartment search after his lease arrangement with Ms. Hart expired also raises questions both about their conduct and about EPA’s ethics process.

Millan Hupp, an EPA appointee who runs Administrator Pruitt’s scheduling and advance operation, reportedly “oversaw an extensive housing hunt for the administrator last year.”⁵⁰ At

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 5 C.F.R. § 2635.502.

⁵⁰ Juliet Eilperin, Brady Dennis, and Josh Dawsey, EPA’s Scott Pruitt faces intensifying scrutiny, criticism of his ethics decisions, *Washington Post*, Apr. 3, 2018, available at https://www.washingtonpost.com/news/energy-environment/wp/2018/04/03/epas-pruitt-gave-big-raises-to-two-close-aides-after-being-rebuffed-by-the-white-house/?utm_term=.9f1856a2685f.

least part of Ms. Hupp's search was carried out during office hours.⁵¹ Under the ethics regulations, an employee is barred from using official time to perform other than official duties, and an official cannot "encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties."⁵² To the extent that Ms. Hupp used official time (and possibly other government resources) to assist Administrator Pruitt with his apartment search, it is a clear violation of the ethics rules. Furthermore, while it is not known whether Administrator Pruitt asked Ms. Hupp for her help with the search, if he did, it would violate the standards of ethical conduct.

It is not known if Administrator Pruitt sought or obtained ethics advice to determine whether Ms. Hupp's apartment search on official time would violate the standards of ethical conduct applicable to the use of government resources. It is difficult to imagine, however, that an ethics official with full knowledge of the circumstances would have sanctioned Ms. Hupp's alleged conduct. Accordingly, in addition to determining whether Administrator Pruitt violated the prohibition on using government resources for personal purposes, OIG should investigate the circumstances surrounding whether and how the ethics process was used in this matter.

Misuse of Resources - Special Hiring Authority Used for Political Appointees

News reports and allegations by former aides to Administrator Pruitt indicating that he may have improperly authorized the use of an EPA special hiring authority to promote at least two political appointees further calls into question both his conduct and EPA's ethics process.

The Safe Drinking Water Act ("SDWA") gives EPA the authority to appoint "not more than thirty scientific, engineering, professional, legal, and administrative positions within the [EPA] without regard to the civil service laws."⁵³ These jobs "are typically reserved for technical experts."⁵⁴ According to press reports, after the White House rejected a proposed raise for Ms. Hupp and another EPA political appointee, Sarah Greenwalt, Administrator Pruitt apparently circumvented that process by authorizing Ms. Hupp and Ms. Greenwalt to be re-appointed under the SDWA authority, resulting in raises of \$28,130 and \$56,765, respectively.⁵⁵ If these reports are true, Administrator Pruitt's use of this authority also may have had the inappropriate effect of

⁵¹ *Id.*

⁵² 5 C.F.R. §§ 2635.705(a), (b).

⁵³ 42 U.S.C. § 300j-10.

⁵⁴ Eric Lipton, *Why Has the EPA Shifted on Toxic Chemicals: An Industry Insider Helps Call the Shots*, *New York Times*, Oct. 21, 2017, available at <https://nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>.

⁵⁵ Elaina Plott and Robinson Meyer, *Scott Pruitt Bypassed the White House to Give Big Raises to Favorite Aides*, *The Atlantic*, Apr. 3, 2018, available at <https://www.theatlantic.com/politics/archive/2018/04/pruitt-epa/557123/>. Ms. Hupp reportedly received a 33 percent increase (from \$86,460 to \$114,590) and Ms. Greenwalt received a 55 percent increase (from \$107,435 to \$164,200). *See also* Letter from Sens. Thomas R. Carper, Sheldon Whitehouse and Reps. Elijah Cummings, Gerald E. Connolly, and Donald S. Beyer, Jr., to EPA Administrator Scott Pruitt, Apr. 12, 2018, ("Carper Letter") available at <https://www.documentcloud.org/documents/4436623-4-12-2018-Letter-to-Pruitt.html>; Eric Lipton and Lisa Friedman, *Lawmakers' Letter Claims Further Spending Abuses by the E.P.A. Head, Scott Pruitt*, *New York Times*, Apr. 12, 2018, available at <https://www.nytimes.com/2018/04/12/climate/pruitt-epa-ethics-letter-congress.html?smid=tw-share>.

rewarding Ms. Hupp after she improperly carried out an apartment search on official time for his personal benefit.

EPA claimed that Administrator Pruitt “was not aware that [Hupp’s and Greenwalt’s] personnel actions had not been submitted to the Presidential Personnel Office” for prior approval and subsequently ordered a review.⁵⁶ Another news report, however, disclosed an email seemingly showing that Administrator Pruitt personally signed off on the pay raise for one of the two aides.⁵⁷

Although EPA claims the raises had been reversed,⁵⁸ a “management alert” issued by OIG on April 16 reported that it had not been provided any documentation to verify that the salaries had been modified.⁵⁹ OIG’s interim report also raises questions about excessive pay raises and the full extent of Administrator Pruitt’s participation in the approval process to hire and promote non-career employees under the SDWA and other authorities.⁶⁰ Between March 2017 and April 2018, two employees received multiple pay raises increasing their salaries by 67.6% and 72.3%, respectively, and three others received pay raises between March 2017 and September 2017 increasing their salaries by 23.9%, 20.9% and 26.7%, respectively.⁶¹ Furthermore, the report disclosed that Administrator Pruitt personally signed authorizations for employment actions under the SDWA for at least four employees, and more than a dozen more authorizations were signed by the chief of staff “for Scott Pruitt.”⁶²

Notably, this is not the first time that Administrator Pruitt used the SDWA hiring authority in an apparent effort to circumvent the normal political appointment process. Last year, Administrator Pruitt hired Nancy Beck, a former top official at the American Chemistry Council, to be Deputy Assistant Administrator for EPA’s Office of Chemical Safety and Pollution Prevention using the SDWA authority.⁶³ The use of the special hiring authority raised serious questions for Dr. Beck because she apparently was brought in carry out the administration’s policy agenda and her duties involve managerial responsibilities, a type of position that normally

⁵⁶ Plott and Meyer, *The Atlantic*, Apr. 3, 2018.

⁵⁷ Elaina Plott, *An Internal Email Contradicts Scott Pruitt’s Account of Controversial Raises*, *The Atlantic*, Apr. 9, 2018, available at <https://www.theatlantic.com/politics/archive/2018/04/pruitt-epa-raises/557561/>.

⁵⁸ Alex Gullen and Anthony Adragna, *Watchdog report provide new ammo for Pruitt’s critics*, *Politico*, Apr. 16, 2018, available at <https://www.politico.com/story/2018/04/16/watchdog-epa-scott-priutt-phone-booth-483164>.

⁵⁹ Memorandum from EPA Inspector General Arthur A. Elkins, Jr. to EPA Administrator Scott Pruitt, Apr. 16, 2018, available at https://www.epa.gov/sites/production/files/2018-04/documents/epaig_20180416-18-n-0154.pdf.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Dino Grandoni, *EPA chief Scott Pruitt relied on obscure law to hire ex-lobbyists, schedulers and spokesmen*, *Washington Post*, Apr. 3, 2018, available at https://www.washingtonpost.com/news/powerpost/wp/2018/04/03/epa-chief-scott-pruitt-relied-on-obscure-law-to-hire-ex-lobbyists-schedulers-and-spokespeople/?utm_term=.047ac4a86cc7.

would be filled by a non-career member of the Senior Executive Service.⁶⁴ Furthermore, by being appointed under this authority, Dr. Beck was able to circumvent additional ethics restrictions required of political appointees subject to the ethics pledge, which among other things would have barred her from taking meetings with her former employer without a waiver.⁶⁵

The use of the special hiring authority for Dr. Beck, Ms. Hupp, Ms. Greenwalt, and other non-career appointees raises significant questions about whether this authority has been abused by Administrator Pruitt. It is not known whether Administrator Pruitt or his top aides sought, received, and/or followed the advice of agency ethics, legal, or personnel officials in making these personnel decisions.

Accordingly, in addition to determining whether Administrator Pruitt misused the agency's special hiring authority in these instances, OIG should investigate whether Administrator Pruitt sought and followed guidance to ensure that EPA's hiring authority was appropriately safeguarded.

Misuse of Resources - Misuse of First Class and Military Aircraft Authority

As has been widely reported, Administrator Pruitt and his staff have engaged in extensive first class and military travel in carrying out their official duties. OIG is already reviewing Administrator Pruitt's travel, whether EPA travel policies and procedures were followed in approving it, and whether those policies and procedures are sufficient to prevent fraud, waste, and abuse.⁶⁶ Any review should also consider these issues in the broader context of concerns about EPA's ethics process.

As you know, there are many examples of questionable use of first class flights and military jet travel, including:

- First class airfare and related travel expenses at a cost of \$17,631 for Administrator Pruitt to travel to Morocco.⁶⁷

⁶⁴ See The United States Government Policy and Supporting Positions (commonly known as the Plum Book), Dec. 1, 2016, at 158, available at <https://www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2016/pdf/GPO-PLUMBOOK-2016.pdf>.

⁶⁵ Executive Order No. 13770, Jan. 28, 2017.

⁶⁶ Memorandum from John Trefry, Director, Forensic Directorate, EPA OIG Office of Audit and Evaluation to Deputy Chief Financial Officer David Bloom, Jan. 10, 2018, available at https://www.epa.gov/sites/production/files/2018-01/documents/epaoig_notificationmemo_01-10-18_travel.pdf.

⁶⁷ Brady Dennis and Juliet Eilperin, New documents show nearly \$68,000 in recent premium flights, hotel stays for EPA's Pruitt, *Washington Post*, Mar. 20, 2018, available at https://www.washingtonpost.com/news/energy-environment/wp/2018/03/20/new-documents-show-nearly-68000-in-recent-premium-flights-hotel-stays-for-epas-pruitt/?utm_term=.9edcacbbe3c.

- Use of a military jet at a cost of \$36,068.50 to fly to New York City from Cincinnati. The use of a military flight was apparently justified on the basis that Administrator Pruitt needed to make a scheduled flight to Rome.⁶⁸
- First class airfare for Administrator Pruitt's travel to and from Rome at a cost of \$7,003.52.⁶⁹
- First class travel for a short flight from Washington, DC to New York City at a cost of \$1,641.43, a ticket that cost more than six times the coach seats for his aides.⁷⁰ The trip was made so that Administrator Pruitt could make two brief television appearances regarding the decision to withdraw from the 2015 Paris climate agreement.⁷¹

Several aspects of the approval of first class and military travel by Administrator Pruitt and his staff are particularly worth close examination. EPA initially claimed that Administrator Pruitt had received a "blanket waiver" to authorize him to fly first-class travel.⁷² Waivers under federal travel regulations, however, can be authorized only on a case-by-case basis, unless the traveler can document a disability or special need.⁷³ EPA subsequently retracted its claim of having obtained a "blanket waiver" after the rules were pointed out.⁷⁴ EPA's claim raises questions about the process by which the "blanket waiver" was sought and approved (assuming it actually was).

Relatedly, EPA also claimed that all of Administrator Pruitt's travel expenses had been approved by ethics officials, raising further concerns about the approval process.⁷⁵ EPA's justification for Administrator Pruitt's waiver for first class travel, for example, was that he faced "unprecedented" security threats.⁷⁶ These threats, however, apparently were not considered as "vital" for trips undertaken at his own expense when he travelled by coach, for example, on trips back home to his house in Oklahoma.⁷⁷ In addition, according to one news report, a new security

⁶⁸ Juliet Eilperin and Brady Dennis, *First-class travel distinguishes Scott Pruitt's EPA tenure*, *Washington Post*, Feb. 11, 2018, available at https://www.washingtonpost.com/national/health-science/first-class-travel-distinguishes-scott-pruitts-epa-tenure/2018/02/11/5bb89afc-0b7d-11e8-8b0d-891602206fb7_story.html?utm_term=.08f3d95e26bd.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Timothy Cama, *Pruitt has 'blanket waiver' to first-class travel rules*, *The Hill*, Feb. 13, 2018, available at <http://thehill.com/policy/energy-environment/373747-pruitt-has-blanket-waiver-to-first-class-travel-rules>.

⁷³ Eric Wolff, Emily Holden, and Alex Guillen, *EPA changes its story on Pruitt's first-class travel*, *Politico*, Feb. 14, 2018, available at <https://www.politico.com/story/2018/02/14/scott-pruitt-first-class-travel-347631>; Federal Travel Regulations, § 301-10.123, Note 2.

⁷⁴ Wolff, Holden, and Guillen, *Politico*, Feb. 14, 2018.

⁷⁵ Eilperin and Dennis, *Washington Post*, Feb. 11, 2018;

⁷⁶ Michael Biesecker, *Security for EPA chief comes at a steep cost to taxpayers*, *Associated Press*, Apr. 8, 2018, available at <https://apnews.com/b6e7dedc97fe4c8198f3efdc27e28cdf>.

⁷⁷ *Id.*

chief Administrator Pruitt hired “signed off on new procedures that let Pruitt fly first-class on commercial carriers,” but it remains unclear if ethics officials were consulted.⁷⁸

Other travel-related issues similarly warrant review in the context of broader questions about the ethics process. For example, the former EPA deputy chief of staff for operations told congressional staff members that Administrator Pruitt would “often seek to schedule trips back to Oklahoma,” so he could stay at his home for long weekends, and would tell his staff to “[f]ind me something to do,” for other destinations he wanted to visit.⁷⁹ The former official also said that Administrator Pruitt would “direct [his] staff to book flights on Delta, even when they are not the federal government contract carrier for the route,” because Administrator Pruitt “want[ed] to accrue more frequent flyer miles.”⁸⁰ He further told the congressional staff that Administrator Pruitt “refused to stay at hotels recommended by the U.S. Embassy, although the recommended hotel had law enforcement and other U.S. resources on-site,” and “chose to stay instead at more expensive hotels with fewer standard security resources.”⁸¹

News reports also indicate that Administrator Pruitt sometimes used a “companion pass obtained with frequent flyer miles accumulated by a . . . senior advisor at EPA.”⁸² If true, Administrator Pruitt’s acceptance of free travel would be prohibited by the standards of ethical conduct, which bars supervisors from accepting gifts (*i.e.*, any item of value) from any employee who receives less pay than them.⁸³

Taken together, these incidents warrant an investigation. That review also should consider the travel-related issues in the broader context of concerns about EPA’s ethics process.⁸⁴

Misuse of Resources - Excessive Security Detail and Expenditures

Allegations that Administrator Pruitt’s expanded security detail and expenses paid for security equipment violated prohibitions on misuse of government resources also raise concerns about the approval and ethics process. It is again unclear if or how Administrator Pruitt sought or

⁷⁸ *Id.*

⁷⁹ Carper Letter; Lipton and Friedman, *New York Times*, Apr. 12, 2018.

⁸⁰ Carper Letter; Lipton and Friedman, *New York Times*, Apr. 12, 2018.

⁸¹ Carper Letter; Lipton and Friedman, *New York Times*, Apr. 12, 2018.

⁸² Biesecker, *Associated Press*, Apr. 8, 2018.

⁸³ 5 C.F.R. §§ 2635.203(b), 2635.302(b).

⁸⁴ To the extent that OIG may have provided any input into the security assessment that served as the basis for the travel determinations, you should consult with the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) to determine whether an inspector general from another agency should be assigned to investigate this issue to avoid any possible conflict of interest. In addition, we respectfully request that EPA Assistant Inspector General for Investigations Patrick Sullivan be recused from the investigation for the reasons stated by CREW in Noah Bookbinder’s and Norman L. Eisen’s Letter to Inspectors General Scott Dahl and Deborah Jeffrey, Council of the Inspectors General on Integrity and Efficiency, Apr. 13, 2018, (“Letter to Inspectors General Dahl and Jeffrey”) available at <https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2018/04/13194957/CIGIE-IC-complaint-Sullivan-EPA-4-13-18.pdf>.

followed ethics advice on his security, but the Government Accountability Office (“GAO”) concluded on April 16, 2018 that some of the security spending violated federal law.

Under the standards of ethical conduct, employees have a duty to protect and conserve government property and are prohibited from using such property for other than authorized purposes.⁸⁵ Administrator Pruitt’s security spending appears to violate those obligations.

Shortly after his appointment, Administrator Pruitt hired a former Secret Service agent who operates a private security company to replace a career staff member he demoted.⁸⁶ Under the new security chief, Administrator Pruitt’s security detail has been expanded to guard him “day and night.”⁸⁷ EPA reportedly has “spent millions of dollars for a 20-member full-time security detail,” that was “more than three times the size of his predecessor’s part-time security contingent.”⁸⁸ Recent news reports indicate that EPA has spent \$3 million (factoring in overtime and travel) to support the expanded security detail assigned to Administrator Pruitt.⁸⁹ The new official also signed off on procedures to allow Administrator Pruitt to fly “first-class on commercial airliners, with the security chief typically sitting next to him with other security staff farther back in the plane,” and which “gave him and his security chief access to VIP airport lounges.”⁹⁰ The security detail reportedly was used for family trips to Disneyland, for the 2017 Rose Bowl game, and for basketball games in Lexington, Kentucky.⁹¹

Under Administrator Pruitt the EPA has also spent heavily on security equipment and services. The new security chief, for example, allegedly arranged for the installation of a \$43,000 soundproof phone booth.⁹² GAO recently concluded that the expenditures violated spending restrictions on furnishing the Administrator’s office and the Antideficiency Act.⁹³ EPA also spent \$9,000 for counter-surveillance precautions, sweeping for hidden listening devices in Administrator Pruitt’s office and installing biometric locks on his door.⁹⁴ The payment for the bug sweep reportedly went to a vice president of the EPA security chief’s outside security business, raising possible procurement and ethics concerns.⁹⁵ Administrator Pruitt is also alleged to have sought a “\$100,000-a-month private jet membership, a bulletproof vehicle and \$70,000 for furniture such as a bulletproof desk for the armed security officer always stationed inside the administrator’s office suite.”⁹⁶

⁸⁵ 5 C.F.R. § 2635.704(a).

⁸⁶ Biesecker, *Associated Press*, Apr. 8, 2018.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Letter from Thomas H., Armstrong, General Counsel, Government Accountability Office to Sens. Tom Carper and Tom Udall and Reps. Peter DeFazio and Betty McCollum, Apr. 16, 2018, available at <http://cdn.cnn.com/cnn/2018/images/04/16/gao.letter.pdf>.

⁹⁴ Biesecker, *Associated Press*, Apr. 8, 2018.

⁹⁵ *Id.*

⁹⁶ *Id.*

OIG should determine whether EPA's security spending resulted in unnecessary and excessive expenditures of agency resources. In addition, OIG should investigate whether Administrator Pruitt and his aides sought and followed advice from the agency's ethics, legal, security, procurement, and management officials necessary to ensure that EPA's public resources were appropriately safeguarded.⁹⁷

Misuse of Resources - Failure to Properly Account for Subordinate's Time and Attendance

News reports indicate that Samantha Dravis, Administrator Pruitt's policy chief who was hired using the Safe Water Drinking Act authority, also was absent from work over an extended period without her time and attendance being properly accounted for. This again calls into question both Administrator Pruitt's conduct and EPA's ethics, legal, and management process.

Failure to require a subordinate to comply with time and attendance obligations may violate ethics rules requiring employees to put forth an honest effort for days worked and may constitute fraud by the employee if the time and attendance has not been properly accounted for.⁹⁸ A former EPA staff member told "lawmakers that for 'a period of weeks' he did not see Samantha Dravis, Mr. Pruitt's policy chief, at work."⁹⁹ It is unknown if Administrator Pruitt or his aides consulted with ethics or other officials about this situation. OIG recently was asked to investigate Ms. Dravis' work attendance because "her alleged absence during much of November, December and January 'raises questions' about whether the agency is adhering to internal rules regarding employee time and attendance."¹⁰⁰ In addition to determining whether Ms. Dravis' absence violated ethics rules, OIG also should review the circumstances involving these matters in the context of other concerns about the ethics process.

Lack of Impartiality

As noted above, Administrator Pruitt hired Nancy Beck last year to be Deputy Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention.¹⁰¹ As CREW

⁹⁷ To the extent that OIG may have provided any input into the security assessment that served as the basis for the size and scope of Administrator Pruitt's security detail or for other security expenditures, you should consult with CIGIE to determine whether an inspector general from another agency should be assigned to investigate this issue to avoid any possible conflict of interest. In addition, we respectfully request that EPA Assistant Inspector General for Investigations Patrick Sullivan be recused from the investigation for the reasons stated in CREW's Letter to Inspectors General Dahl and Jeffrey.

⁹⁸ 5 C.F.R. § 2635.101(b)(5); *see, e.g.*, Press Release for U.S. Attorney's Office for the District of Columbia, Former EPA Senior Policy Advisor Pleads Guilty to Theft in Scheme That Cost Government Nearly \$900,000 – Admits Collecting Pay for Hundreds of Days He Wasn't Working, Sept. 27, 2013, *available at* <https://www.justice.gov/usao-dc/pr/former-epa-senior-policy-advisor-pleads-guilty-theft-scheme-cost-government-nearly-900000>.

⁹⁹ Carper Letter; Lipton and Friedman, *New York Times*, Apr. 12, 2018.

¹⁰⁰ *Id.*; Letter from Sen. Tom Carper to EPA Inspector General Arthur A. Elkins, Jr., Mar. 28, 2018, *available at* <https://www.nytimes.com/interactive/2018/04/05/climate/document-Samantha-Dravis-Letter.html>.

¹⁰¹ Grandoni, *Washington Post*, Apr. 3, 2018.

previously expressed to OIG, Dr. Beck's appointment and conduct raised numerous ethics issues because of the significant overlap between the work she did for the American Chemistry Council ("ACC") before joining EPA and her policy work at EPA on related issues.¹⁰² One of those issues involved Mr. Minoli's determination authorizing Dr. Beck to fully participate in a rulemaking involving her former employer going forward.¹⁰³ That determination failed to properly take into account that Dr. Beck personally authored comments submitted by ACC in the rulemaking, her central role at EPA in the rulemaking, ACC's significant financial interests in it, and whether alternative EPA expertise was available. Mr. Minoli's approval both undermined confidence in the integrity of that rulemaking process and raises further questions about the ethics process at EPA.

Retaliation Against EPA Employees

These repeated cases of potential ethics violations are more than sufficient to raise serious concerns about EPA's ethics process and warrant a thorough investigation. Recent news reports alleging retaliation against several EPA staff members who voiced objections to improper expenditures and conduct by Administrator Pruitt and his staff is a further and deeply troubling cause for alarm. These allegations may indicate that EPA's ethics process is not simply broken, but has been compromised.

According to news reports, at least five EPA officials who pushed back against Administrator Pruitt's proposed \$100,000-a-month private jet membership, a requested bulletproof vehicle, and \$70,000 for a bulletproof desk for an officer stationed inside Administrator Pruitt's office were placed on "leave, reassigned or demoted."¹⁰⁴ Similarly, the former EPA deputy chief of staff for operations reportedly was fired or placed on administrative leave because he refused to retroactively sign off on first-class travel for a senior aide to Administrator Pruitt who accompanied him on the return trip from Morocco.¹⁰⁵ Another career EPA staffer reportedly was removed after he approved an internal report that "undermined" Administrator Pruitt's "claims that he needed around-the-clock bodyguards and other expensive security protection," after concluding that an "earlier assessment failed to identify credible direct threats against the administrator that would justify his heavy security spending."¹⁰⁶

Government whistleblowers are protected from retaliation by statute.¹⁰⁷ Those protections cover disclosures made to a supervisor or higher manager alleging a violation of law,

¹⁰² Letter from Noah Bookbinder, CREW Executive Director, to EPA Inspector General Arthur A. Elkins, Jr., Oct. 31, 2017, available at <https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/10/30210554/EPA-IG-Complaint-Nancy-Beck-10-31-17.pdf>.

¹⁰³ *Id.*

¹⁰⁴ Biesecker, *Associated Press*, Apr. 8, 2018.

¹⁰⁵ Alex Guillen, *Former EPA staffer: Refusal to OK first-class flight for Pruitt aide prompted firing*, *Politico*, Apr. 12, 2018, available at <https://www.politico.com/story/2018/04/12/former-epa-staffer-pruitt-first-class-478291>; Carper Letter.

¹⁰⁶ Emily Holden, *EPA removes staffer who OK'd report on Pruitt's security*, *Politico*, Apr. 10, 2018, available at <https://www.politico.com/story/2018/04/10/documents-contradict-epa-claims-threats-984459>.

¹⁰⁷ 5 U.S.C. § 2302(b)(8).

rule or regulation, or gross mismanagement, a gross waste of funds, or an abuse of authority.¹⁰⁸ Moreover, as the head of the agency, it is incumbent upon the Administrator to take every appropriate action to ensure that whistleblowers are protected from retaliation

If these allegations of retaliation are true, EPA employees may fear adverse consequences from reporting potentially unethical conduct or spending. Even worse, EPA ethics officials may fear providing honest and uninhibited advice and determinations. OIG should investigate these allegations to determine if Administrator Pruitt or those acting on his behalf have engaged in retaliation that would constitute a systemic abuse of authority. Furthermore, any review of the ethics process at EPA should take into consideration the possibility that the alleged retaliation may have compromised that process.

Conclusion

The EPA's current process for managing ethics issues, particularly those arising from Administrator Pruitt's conduct, appears to be dysfunctional. By any reasonable measure, Administrator Pruitt seems to have repeatedly failed to adhere to the standards of ethical conduct, and those apparent violations should be investigated. More importantly, the frequency and quantity of these ethical issues raises serious concerns that the process by which ethics guidance is sought and provided is itself broken. Those concerns are aggravated by allegations of retaliation against employees who object to questionable ethical conduct by Administrator Pruitt and others. Accordingly, OIG should both thoroughly investigate the possible violations of the standard of ethical conduct and other laws, and broadly review EPA's ethics process to ensure it is operating to fulfill the critical mission of executive branch ethics programs of safeguarding and promoting public confidence in the integrity of government decision-making.

Sincerely,



Noah Bookbinder
Executive Director



Ambassador (Ret.) Norman L. Eisen
Chair

¹⁰⁸ *Id.*